

Shire of Denmark

Ordinary Council Meeting Minutes

17 March 2020



HELD IN THE COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY,
DENMARK ON TUESDAY, 17 MARCH 2020.



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Strategic Community Plan (snapshot)

E1.0

Our Economy

We are an attractive location to live, invest, study, visit and work

- E1.1 To have a stable and locally supported business community that embraces innovation, creativity, resourcefulness and originality
- E1.2 To be a vibrant and unique tourist destination, that celebrates our natural and historical assets
- E1.3 To have diverse education and employment opportunities
- E1.4 To recognise the importance of agriculture in our local economy and protect prime agricultural land

N2.0

Our Natural Environment

Our natural environment is highly valued and carefully managed to meet the needs of our community, now and in the future

- N2.1 To preserve and protect the natural environment
- N2.2 To promote and encourage responsible development
- N2.3 To reduce human impact on natural resources, reduce waste and utilise renewable energy
- N2.4 To acknowledge and adapt to climate change

B3.0

Our Built Environment

We have a functional built environment that reflects our rural and village character and supports a connected, creative, active and safe community

- B3.1 To have public spaces and infrastructure that are accessible and appropriate for our community
- B3.2 To have community assets that are flexible, adaptable and of high quality to meet the purpose and needs of multiple users
- B3.3 To have a planning framework that is visionary, supports connectivity and enables participation
- B3.4 To manage assets in a consistent and sustainable manner
- B3.5 To have diverse and affordable housing, building and accommodation options

C4.0

Our Community

We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster community spirit

- C4.1 To have services that foster a happy, healthy, vibrant and safe community
- C4.2 To have services that are inclusive, promote cohesiveness and reflect our creative nature
- C4.3 To create a community that nurtures and integrates natural, cultural and historical values
- C4.4 To recognise and respect our local heritage and Aboriginal history

L5.0

Our Local Government

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government

- L5.1 To be high functioning, open, transparent, ethical and responsive
- L5.2 To have meaningful, respectful and proactive collaboration with the community
- L5.3 To be decisive and to make consistent and well considered decisions
- L5.4 To be fiscally responsible
- L5.5 To embrace change, apply technological advancement and pursue regional partnerships that drive business efficiency
- L5.6 To seek two-way communication that is open and effective

DISCLAIMER

These minutes and resolutions are subject to confirmation by Council and therefore prior to relying on them, one should refer to the subsequent meeting of Council with respect to their accuracy.

No responsibility whatsoever is implied or accepted by the Shire of Denmark for any act, omission or statement or intimation occurring during Council/Committee meetings or during formal/informal conversations with staff.

The Shire of Denmark disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council/Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a license, any statement or limitation or approval made by a member or officer of the Shire of Denmark during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Denmark. The Shire of Denmark warns that anyone who has an application lodged with the Shire of Denmark must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Denmark in respect of the application.

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.00pm – The Shire President, Cr Gearon, declared the meeting open.

Cr Gearon acknowledged the land on which the meeting was being held and the traditional custodians of the land, the Bibbulmun and Minang people.

Cr Gearon stated that she would also like to show her respect for Elders past, present and emerging.

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

MEMBERS:

- Cr Ceinwen Gearon (Shire President)
- Cr Mark Allen (Deputy Shire President)
- Cr Geoff Bowley
- Cr Kingsley Gibson
- Cr Steve Jones
- Cr Jan Lewis
- Cr Ian Osborne
- Cr Janine Phillips
- Cr Roger Seeney

STAFF:

- Mr David Schober (Acting Chief Executive Officer)
- Mr David King (Director Assets and Sustainable Development)
- Mr Lee Sounness (Executive Manager Corporate Services)
- Ms Angela Simpson (Executive Manager Community Services)
- Ms Suzanne Mearns (Executive Support Officer)

APOLOGIES:

Nil

ON APPROVED LEAVE(S) OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 16

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Seeney	8.1.1	Impartiality	Cr Seeney is a member of the Denmark Historical Society.
Cr Osborne	8.1.1	Impartiality	Cr Osborne is a member of the Denmark Riverside Club and the John Clark Memorial Bandstand is included in the Club's lease area.
Cr Bowley	8.1.1	Impartiality	Cr Bowley is a member of the Denmark Riverside Club.
Cr Gearon	8.2.3 & 8.2.4	Financial	Cr Gearon's spouse is a Manager at the Denmark Community Resource Centre.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

Cr Gearon thanked the public for attending the meeting, particularly while the community was coming to terms with the implications of the COVID-19 virus on social gatherings.

Cr Gearon informed attendees that Shire of Denmark Officers were currently working on a COVID-19 virus Pandemic Plan for a situation that is rapidly changing, to ensure that accurate and up to date information was being provided to staff and the community.

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

In accordance with Section 5.24 of the Local Government Act 1995, Council conducts a public question time to enable members of the public to address Council or ask questions of Council. The procedure for public question time can be found on the wall near the entrance to the Council Chambers or can be downloaded from our website at <http://www.denmark.wa.gov.au/council-meetings>.

Questions from the public are invited and welcomed at this point of the Agenda.

In accordance with clause 3.2 (2) & (3) of the Shire of Denmark Standing Orders Local Law, a second Public Question Time will be held, if required and the meeting is not concluded prior, at approximately 6.00pm.

Questions from the Public

4.2.1 Ms Robyn Glenister – Pathway between Wattle Way and Mt Shadforth Road

Ms Glenister asked when works to create a pathway between Mt Shadforth Road and Wattle Way are to be scheduled and when detailed costings would be available to the Public.

The Director Assets & Sustainable Development explained that the Shire had conducted a review of all footpaths within the Shire, with the development of a footpath at this location being of a very high priority. Mr King confirmed that this project will compete against other priorities across the Shire during the corporate business plan process which is to be conducted over the next three months.

4.2.2 Mrs Bev McGuinness – Item 8.1.1 – Proposed Demolition of John Clark Memorial Bandstand

Mrs McGuinness asked Council to reconsider the proposal to demolish the John Clark Memorial Bandstand and stated that the Denmark Historical Society had obtained written quotes for repair works. Mrs McGuinness went on to confirm that quotes were inclusive of concrete and steelworks.

Mrs McGuinness confirmed that she was representing the Denmark Historical Society who fully supported the Bandstand being restored and to remain at its current location. Mrs McGuinness asked that correspondence from the Denmark Historical Society dated 9 August 2019 providing alternative options be ignored.

4.2.3 Mrs Beth Franz – Item 8.1.1 – Proposed Demolition of John Clark Memorial Bandstand

Mrs Franz spoke to Council on the history of the Bandstand and asked Council not to demolish this historical structure.

4.2.4 Mr Murray Thornton – Item 8.2.1 – Decision from Annual General Meeting of Electors

Mr Thornton made comment on the movement of money from the restricted creditor Roadworks account to revenue, without either doing the works or creating a liability on the balance sheet and stated that in his opinion, Council should reject the Officer recommendation relating to the Annual Meeting of Electors held on 4 February 2020.

4.2.5 Mr Michael Travers – Local Planning Scheme Review

Mr Travers asked what measures were in place to ensure that community consultation would take place in relation to the review of the LPS 2011.

The Director Assets & Sustainable Development confirmed that the Shire would be conducting media campaigns and extensive community consultation during the process and invited Mr Travers to meet with him to discuss further.

The Shire President made comment that the timelines for such consultation may need to be put on hold in the face of the current emergency, and the Community would be kept well-informed of any changes in process.

4.2.6 Mr Michael Travers – Denmark Visitors Centre

Mr Travers asked what plans the Shire had in the face of the Denmark Visitors Centre no longer being operated by the Amazing South Coast (ASC) from 30 June 2020.

The Acting Chief Executive Officer confirmed that the Shire was in discussions with the Amazing South Coast in relation to the future of the Denmark Visitors Centre on 30 June 2020.

4.2.7 Ms Julie Marsh – Mulching of Cleared Trees

Ms Marsh asked that the Shire consider requesting that new developers/builders mulch any trees that are cleared as part of their building permit.

Cr Lewis advised that she would raise this comment at the upcoming Sustainability Working Group Meeting.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

In accordance with Section 5.24 of the Local Government Act 1995, Sections 5, 6 and 7 of the Local Government (Administration) Regulations and section 3.3 and 3.13 of the Shire of Denmark Standing Orders Local Law, the procedure for persons seeking a deputation and for the Presiding Officer of a Council Meeting dealing with Presentations, Deputations and Petitions shall be as per Council Policy P040118 which can be downloaded from Council's website at <http://www.denmark.wa.gov.au/council-meetings>.

In summary however, prior approval of the Presiding Person is required and deputations should be for no longer than 15 minutes and by a maximum of two persons addressing the Council.

Nil

5. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

A Council may, by resolution, grant leave of absence, to a member, for future meetings.

Nil

4.43pm – Cr Jones left the room.

6. CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING – 18 FEBRUARY 2020

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.1
MOVED: CR SEENEY	SECONDED: CR BOWLEY
That the minutes of the Ordinary Meeting of Council held on the 18 February 2020 be confirmed as a true and correct record of the proceedings, subject to the following amendment:	
1. Page 68 – Correct the words “Cr Gearon & Cr Lewis returned to the room” to “Cr Gearon & Cr Phillips returned to the room”.	
CARRIED UNANIMOUSLY: 8/0	Res: 020320

4.45pm – Cr Jones returned to the room.

6.2 STRATEGIC BRIEFING NOTES – 18 FEBRUARY 2020

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.2
MOVED: CR GIBSON	SECONDED: CR GEARON
That the Notes from the Strategic Briefing Forum held on the 18 February 2020 be received.	
CARRIED UNANIMOUSLY: 9/0	Res: 030320

6.3 SPECIAL COUNCIL MEETING – 3 MARCH 2020

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.3
MOVED: CR PHILLIPS	SECONDED: CR GIBSON
That the minutes of the Special Meeting of Council held on the 3 March 2020 be confirmed as a true and correct record of the proceedings.	
CARRIED UNANIMOUSLY: 9/0	Res: 040320

7. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
Nil

8. REPORTS OF OFFICERS

8.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT

Cr Seeney declares a financial interest on the basis that he is a member of the Denmark Historical Society.

Cr Bowley declares a financial interest on the basis that he is a member of the Denmark Historical Society.

Cr Osborne declares a financial interest on the basis that he is a member of the Denmark Riverside Club and the John Clark Memorial Bandstand is included in the Club’s lease area.

8.1.1 PROPOSED DEMOLITION OF JOHN CLARK MEMORIAL BANDSTAND – PORTION OF RESERVE 39055, NO.2 (LOT 1002) BAMBREY ROAD, DENMARK

File Ref:	A3188
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Portion of Reserve 39055, No.2 (Lot 1002) Bambrey Road, Denmark

Disclosure of Officer Interest:	Nil
Date:	9 March 2020
Author:	Jasmine Tohill, Senior Town Planner
Authorising Officer:	David King – Director Assets & Sustainable Development
	8.1.1a – Development Application Documentation
	8.1.1b – Extract of Municipal Heritage Inventory
Attachments:	8.1.1c – Aboriginal Heritage site plan
	8.1.1d – Submissions
	8.1.1e – Structural Engineering Report

Summary:

The application seeks approval to demolish the John Clark Memorial Bandstand, being a building listed on the Schedule of Places of Heritage Value – Appendix VII of the Shire of Denmark Town Planning Scheme No.3 (TPS No.3) and the Shire’s Municipal Heritage Inventory.

The application seeks to ratify Council’s resolution of 18 June 2019. The approval of Council is required in the absence of delegation for officers to determine applications on land reserved under TPS No.3.

Having regard to assessment of the proposal in line with the intent and objectives of TPS No. 3, Town Planning Scheme Policy No.45: Planning Application Process for Heritage Places and Council’s previous resolution on this matter, approval is recommended. However, Council should be aware of the Denmark Historical Society (DHS) latest proposal to restore the Bandstand.

Background:

Previous Council Resolution

At the Ordinary Meeting of Council held on 18 June 2019 Council resolved as follows:

With respect to the Recreational Power Boat & Foreshore Usage Study 2013-2017 Council:

1. *Receive the report to guide future development on Reserve 20403, 3 Morgan Road, Denmark and portion of reserve 39066, 2 Bambrey Road, Denmark.*
2. *Endorses the removal of the John Clark Memorial Bandstand, following a consultation process with the Denmark Historical Society to determine if sections of the removed structure can be installed or used at the Denmark Historical Society museum, the Historical Railway Precinct, or other suitable location.*
3. *Recognises the historical value of the structure to the community and will investigate means of replacing the structure with a similar design, in keeping with the Recreational Power Boat & Foreshore Usage Study 2013-2017. (RESOLUTION 090619)*

In adopting this resolution Council determined not to initiate formal public consultation on the future of the John Clark Memorial Bandstand for the following reason:

“The Bandstand is beyond repair and the Shire cannot afford reinstatement. Public consultation would only instil false hope to the community that repair may be feasible. It is considered that there is no affordable option but to remove the structure, and consult with Denmark Historical Society to see if sections can be retained for installation at an appropriate location.”

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council’s Community Engagement Policy P040123 and the associated Framework, the requirements of Town Planning Scheme No.3, Schedule 2, Part 8, Clause 64 of *the Planning and Development (Local Planning Schemes) Regulations 2015, Policy No.45: Planning*

Application Process for Heritage Places and Council's prior resolution. On this basis the following level of consultation was undertaken:

External Consultation:

- Denmark Riverside Club Inc (Lessee)
- Denmark Historical Society (DHS)
- Department of Planning Lands and Heritage (Heritage)
- Department of Planning Lands and Heritage (Aboriginal Heritage)

The comments provided by each party are provided in full at Attachment 8.1.1d.

Internal Consultation:

- Development Co-ordination Unit.

Petition

Council received a petition at the Ordinary Council meeting of 16 July 2019 containing 513 signatures, including an online petition containing 456 signatures of which approximately 96 were identified as residents and/or ratepayers of the Shire Denmark. The petition states:

"We the undersigned, being electors of the Shire of Denmark are opposed to your decision to demolish the John Clark Memorial Bandstand without following due process as set out in the Community Consultation Policy.

Your petitioners, respectfully request to Council to revoke their decision to demolish the John Clark Memorial Bandstand and allow a community consultation period in which to consider other possible options for the future of this structure."

Statutory Obligations:

Town Planning Scheme No.3 (TPS No. 3), including the Deemed Provisions (Schedule 2) of *Planning and Development (Local Planning Schemes) Regulations 2015*, specifies those matters pertinent to the application.

The subject land is reserved for Parks and Recreation wherein Council is required to have regard to the ultimate purpose of the reserve in considering any application for planning consent. The proposed building demolition and reinstatement of the foreshore is consistent with the purpose of the reserve.

Policy Implications:

Schedule 2, Part 2; Clause 3(5) of the *Planning and Development (Local Planning Schemes) Regulations 2015* states:

In making a determination under this Scheme the local government must have due regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.

Planning Policy No.15 – Townscape Policy

The Townscape Policy objective is to provide council and prospective developers with broad guidelines for appropriate developments in harmony with our unique environment. In reference to Heritage Values the policy stipulates that "*Council will encourage the retention of places of recognised heritage value*".

Planning Policy No.45 – Planning Application Process for Heritage Places

Policy No.45 provides guidance on the assessment process for planning applications that relate to heritage places. All planning applications pertaining to a heritage place are required to be referred to the Denmark Historical Society and/ or the State Heritage Office (depending

on listing type) for comment. The development application has been referred to both the Denmark Historical Society and the State Heritage Office for comment, with their responses provided in full at Attachment 8.1.1d.

Although Policy No.45 provides that the application may, at the discretion of the Director of Assets and Sustainable Development, be subject to broader public consultation Council has previously determined that such consultation would serve no reasonable purpose.

Strategic Implications:

The site is designated 'Parks and Recreation' in the Local Planning Strategy (2011) ('LPS'). Relevant objectives for 'Community, Education, Cultural and Heritage' include the following:

- Provide a variety of recreational services to enhance residents' connection to the community.
- Recognise places with heritage values and provide measures to protect these values.

The Strategy places an emphasis on implementing recommendations of the Municipal Heritage Inventory when considering development or subdivision applications, and in undertaking regular review/update of the adopted Municipal Heritage Inventory.

Background analysis within the LPS recognises the need to accommodate the construction of additional civic buildings as the population expands as well as fund management, maintenance and refurbishment of these structures. Such budgeting factors had formed a key consideration in Council's previous support for removal of the building.

The Riverside Stage 2 Recreational Power Boat and Foreshore Usage Study (2013-2017), was received by Council at its meeting of 18 June 2019 and supported as a basis to guide and plan for possible upgrades to the riverside from Kwoorabup Park to the Rivermouth, including Reserve 39066 containing the John Clark Memorial Bandstand. A full copy of the Study is available to view in conjunction with the Council minutes dated 18 June 2019. With regard to the John Clark Memorial Bandstand the following has been recommended as part of proposed future facilities:

- *The relocation of the existing John Clark Memorial Bandstand providing a new public shelter and connection to the floating pontoon. The two main steel beams supporting the roof of the Bandstand were identified as having a very high likelihood of failure and requiring immediate action as assessed by the structural engineer. During the period of this study being carried out the Shire instigated temporary rectification work to secure the structure. The Bandstand also contains toilet and sewer amenities that are not suitable for its proximity to the river. Relocating the facility away from the river, removing the amenities and replacing the structure would alleviate these problems. The proposed new facility would draw on the bandstands history by possibly incorporating existing elements, it also draws on the aboriginal cultural heritage of the location by referencing a traditional Mia shelter. It would link to the pontoon with a lightweight timber structure minimising impact on the river bank.*

Budget / Financial Implications:

An allocation of \$15,850 has been included in the 2019/20 Budget for the demolition and decommissioning of the effluent disposal system, if approved by Council.

Strategic Plan Implications:

The report and officer recommendation are consistent with Council's adopted Strategic Plan Aspirations and Objectives in the following specific ways:

Denmark 2027

B3.0 Our Built Environment:

We have a functional built environment that reflects our rural and village character and supports a connected, creative and active community.

- B3.2 To have community assets that are flexible, adaptable and of high quality to meet the purpose and needs of multiple users
- B3.4 To manage assets in a consistent and sustainable manner.

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

The proposal would result in the river edge being returned to a more natural state and decommissioning of the existing septic system. Erosion, waste management and sediment control measures will be required during works to prevent materials from entering the river.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

The Municipal Heritage Listing recognises the social significance of the Bandstand.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Reputational Risk That reputational damage is sustained by leaving the John Clark Memorial Bandstand in a state of disrepair with no future actions identified.	Almost Certain (5)	Moderate (3)	High (10-16)	Damage to Physical Assets	Manage by: 1. requiring a memorial plaque to be installed in an appropriate position. 2. Resolve that any future structure hold the name John Clark.
Reputational Risk: Adverse impacts upon local aesthetic and cultural heritage.	Likely (4)	Moderate (3)	Moderate (5-9)	Not Meeting Community expectations	Manage by: A condition to be applied requiring a photographic record of the building and the removal and preservation of all decorative lettering and plaques.
Health: Potential public safety risks if left in disrepair.	Rare (1)	Catastrophic (5)	Moderate (5-9)	Inadequate Employee, Visitor or Public Safety & Security	Manage by: Demolishing or remediating the Bandstand.

Comment/ Conclusion

Heritage Listing

The Bandstand was constructed in 1964 and is listed on the Municipal Heritage Inventory (MHI) as having a Considerable level of significance noting its aesthetic, social and historic heritage significance and high degree of integrity/ authenticity. A full extract of the listing, including a description of the building and relevant historic context is provided at Attachment 8.1.1b.

Under the 2014 MHI review the condition of the building was referenced as 'Good' with some minor remedial works undertaken in that year to the roof and foundations for structural integrity purposes. Shire records indicate that the building has been in need of ongoing maintenance and repair works over many years and that its condition has continued to deteriorate. The building is now certified as unsafe and has been closed to public access. Other foreshore elements that were constructed on the eastern river bank as part of the original Bandstand use, including grassed terrace areas are no longer visible.

The Department of Planning, Lands and Heritage have declined to provide comments on the proposal with respect to its historic value, noting that it is not in the State Register of Heritage Places, is not subject to a heritage agreement and is not identified as a place warranting assessment by the Heritage Council.

A preliminary review undertaken by the Heritage Council's Register Committee in 2016 determined that while the place may have some cultural heritage significance it was unlikely to meet the threshold for entry on the State Register of Heritage Places.

Existing Lease

The building is located on Reserve 39066 (Lot 1002) which is vested in the Shire of Denmark for the purpose of Parks and Recreation. The building and immediate surrounds form part of a 21 year lease issued to the Denmark Riverside Club Inc. (an amalgamation of the previous Denmark Bowling Club and Denmark Dragon Boating Club).

The Bandstand was used by members of the Club (Dragon boaters & kayakers) for storage and toilet facilities since 2010, however, due to its unsafe condition the club has now vacated the building and instead utilises facilities within the main Club House building on Reserve 20403.

The Club has indicated its desire to participate in ongoing plans for the area through the Riverside Stage 2 – Recreational Power Boat & Foreshore Usage Study, with the aim of securing more appropriate access and egress to the river for its members. A full copy of the (Attachment 8.1.1d).

Denmark Historical Society (DHS) Proposal

As detailed in the August submission from the DHS, a number of their members strongly expressed the view that the Bandstand was a Denmark Icon and that many members of the community has a very strong attachment to it. Their preferred outcome was the rebuilding of the Bandstand in the same location, with better protection from high water levels.

The DHS were provided a copy of the building report (Attachment 8.1.1e) and over the last few months the DHS have sourced quotes from local suppliers with a view to proposing a lower cost alternative.

The following quotes have been received:

1. Fabricate and fit new beams for Bandstand Including the galvanising, freight and aiding in the removal of old beams. \$10,466.

2. Relay a new concrete pad over the top of the existing failed slab at a higher level. \$9,428
3. Reconstruct the dilapidated retaining wall at the front of the Bandstand. \$4,635
It is understood by officers that these prices are discounted with the majority of the cost in materials and labour reduced or donated in kind. It is also understood that the significant labour costs associated with removal and replacement of the existing, acceptable structural members is included in kind by others.

The building condition report tabulating the component and their condition is provided in Attachment 8.1.1e which is used to compare the scopes of work.

Whilst the above quotes consider the replacement of the main roof beams and the concrete slab (in practice the slab would need to be removed and not simply cast over the existing) and they do not allow for the necessary engineering costs required to ensure design capacity meets current standards. In addition, the quotes do not allow for the replacement of the remaining roof structural elements or roof cladding. These items would be typically be carried out given that the majority would need to be dismantled in order to replace the major supporting beams.

Omitting the retaining wall component not previously considered, the proposal would cost in the order of \$25,000 to replace the main beams and failed slab. The DHS request that the \$15,000 allocated to demolition be used to fund a portion of this with the balance to be funded through DHS sourced funding or Council revenue.

Given the above quotes and in kind labour, it is officers estimation that the cost to complete previously proposed works would be in the vicinity of \$40,000 assuming the majority of the labour was to be provided in kind.

Conclusion

The Bandstand was constructed primarily to function as a venue for hosting public concerts and events, whilst also incorporating public toilet facilities. Use of the building for its intended purpose has diminished over time.

A report presented to Council in May 2010 that considered the Denmark Dragon Boat Club's proposal to use the building for storage noted that "*The Bandstand is not used often (twice for the purpose it was intended in the last 3-years as far as the author is aware) and occasionally by local arts and performers.*" This same report noted the general condition of the Bandstand at the time as average to poor, citing various defects that would need to be corrected. The site is subject to flooding with periodic submersion of the ground slab and failure of the septic system which has posed an ongoing threat to the river.

Notwithstanding that there had been an intent over many years to allocate funds towards refurbishment of the building this was not forthcoming due to budget constraints. The most recent engineering report suggests that the cost of reinstating the structure would now be in the vicinity of \$90,000. It should be noted that the DHS have proposed an alternate plan at a significantly lower cost of approximately \$40,000 for the full scope of works if the assumptions indicated in the report are accurate.

Whilst the building represents a distinctive architectural feature within the river landscape and has historic and sentimental value for many within the community, the design, location and poor condition of the building poses limitations upon its long term viability as a modern performance space or its capacity to be refurbished and adapted for a range of other community purposes over time.

There is nothing within the adopted planning framework to prevent demolition of the building.

The proposal will allow removal of a dilapidated structure and reinstatement of the foreshore to a more natural state. The proposal is consistent with recommended facilities identified within the Riverside Stage 2 program that suggests there are opportunities to re-introduce representative design elements of the Bandstand in a location and manner that is sympathetic to the river environment and aboriginal cultural heritage significance of the area.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.1.1

MOVED: CR ALLEN

SECONDED: CR GIBSON

That with respect to the development application for the proposed demolition of the John Clark Memorial Bandstand – Portion of Reserve 39055, No.2 (Lot 1002) Bambrey Road, Denmark, Council:

1. Notes the submissions received.
2. Approve demolition of the Bandstand subject to the following conditions:
 - (a) Prior to a Demolition Permit being granted by the Shire of Denmark (Building Services) pertaining to the existing building on-site, a photographic archival record of the exterior and interior of the building to be compiled in liaison with the Denmark Historical Society such that the local heritage values of the site are captured and preserved. Specifically, in relation to the photographic archival record, the following information is relevant and required:
 - (i) Base site plan showing the location of the building in relation to its land boundaries, with such base plan cross-referencing the location(s) where photographs of the exterior of the building were taken from;
 - (ii) Floor plan of the premises, with such floor plan cross-referencing the location(s) where photographs of the interior of the building were taken from;
 - (iii) Photos to be in colour, of a high quality, and show the current state of the place;
 - (iv) Each photograph to be clearly labelled with a description of what is depicted in the photograph and the date it was taken.
 - (b) All decorative lettering and memorial plaques on the building are to be removed prior to demolition and such articles gifted to the Denmark Historical Society.
 - (c) Prior to commencement of demolition works a waste management, soil stabilisation/erosion and sediment control plan shall be prepared to the satisfaction of the Shire of Denmark (Health Services and Sustainability Services) to prevent sedimentation or demolition material from entering the river. The plan shall be implemented for the duration of works.
 - (d) Any existing on-site effluent disposal system shall be decommissioned in accordance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.
 - (e) A plaque be created and installed in an appropriate location. Content and location to be informed by the Denmark Historical Society.

Advice Notes

- (i) This is not a Demolition Licence. In accordance with the provisions of the *Building Act 2011*, an application for a Demolition Licence is required to be submitted and approved by the Shire of Denmark (Building Services) prior to the demolition of any existing building(s) on-site.
3. Advise the submitters of Council's decision.
 4. Resolve that any new structure in this location should carry John Clark's name and include a plaque to commemorate John Clark and the Bandstand.

ALTERNATE MOTION	
MOVED: CR PHILLIPS	SECONDED: CR SEENEY
Council defer the decision to demolish the John Clarke memorial bandstand for three months to allow firm interaction between the Shire and Denmark Historical Society showing the scope of the repairs required, how the DHS will fund the project, who will be managing the repairs/rebuild and who will take responsibility for ongoing maintenance.	
LOST: 2/7	Res: 050320
<i>Pursuant to Council Policy P040134 all Councillors' votes on the above resolution are recorded as follows:</i>	
FOR:	CR PHILLIPS AND CR SEENEY
AGAINST:	CR GEARON, CR ALLEN, CR BOWLEY, CR JONES, CR OSBORNE, CR LEWIS AND CR GIBSON
THE ORIGINAL MOTION WAS PUT AND CARRIED: 7/2	
	Res: 060320
<i>Pursuant to Council Policy P040134 all Councillors' votes on the above resolution are recorded as follows:</i>	
FOR:	CR GEARON, CR ALLEN, CR BOWLEY, CR JONES, CR OSBORNE, CR LEWIS AND CR GIBSON
AGAINST:	CR PHILLIPS AND CR SEENEY

8.1.2 PROPOSED TELECOMMUNICATIONS UPGRADE – INSTALLATION OF X2 LENS ANTENNAS – No.26 (Lot 150) HENWOOD STREET, DENMARK

File Ref:	A1154 (2019/168)
Applicant / Proponent:	Visionstream Pty Ltd
Subject Land / Locality:	No.26 (Lot 150) Henwood Street, Denmark
Disclosure of Officer Interest:	None
Date:	5 March 2020
Author:	Jasmine Tohill, Senior Town Planner.
Authorising Officer:	David King, Director Assets & Sustainable Development
Attachments:	8.1.2a – Development Application Documentation (As Advertised) 8.1.2b – Development Application Plans & EME levels (Modified) 8.1.2c – Schedule of Submission 8.1.2d – Applicant response 8.1.2e – Advice regarding landscaping 8.1.2f – Location Plan

Summary:

The applicant is seeking Development Approval for proposed 'Telecommunications Infrastructure' consisting of the installation of two (2) lens antennas on an existing 50 metre high National Broadband Network (NBN) lattice tower at No.26 (Lot 150) Henwood Street, Denmark. Having regard to the requirements of Town Planning Scheme No.3, State Planning Policy No.5.2, WAPC Guidelines for the Location, Siting and Design of Telecommunications Infrastructure and those issues raised in submissions; conditional approval is recommended.

Background:

Subject Site

No. 26 (Lot 150) Henwood Street, Denmark (the 'site') is approximately 9.6 hectares in area and is zoned "Rural" by Town Planning Scheme No.3 (TPS 3).

The site is predominantly vegetated, with a Restrictive Covenant registered to the benefit of the National Trust for the purpose of protecting the natural and cultural qualities of the bushland. Existing cleared areas in the southern portion of the site contain:

- A residential dwelling and associated outbuildings;
- A 50m high Telstra lattice tower with co-located carriers, associated infrastructure and equipment shelters; and
- A 50m high NBN lattice tower, outdoor equipment shelters and ancillary equipment.

Adjoining land to the west consists of Special Residential lots within the Warham Road Special Residential (2) zone. Immediately south are Residential R2 coded lots, with adjacent land to the south, east and north reserved as Parks and Recreation under TPS 3. The nearest residential dwellings are located approximately 70 metres to the west.

(See Attachment 8.1.2f for Location Plan/aerial photograph).

Proposal

The application proposes the installation of two (2) lens antennas measuring 1200 x 1200 x 1400mm, to replace two panel antennas on the existing NBN tower. A full copy of the report and plans as advertised are provided at Attachment 8.1.2a.

Modified plans have been received following advertising that propose a change in the placement of the antennas on the tower, reducing them from an installation height of 48 metres to 47 metres and 45 metres respectively. Updated (Electromagnetic Energy) EME levels have also been provided referring to a marginal increase in the maximum EME exposure level, still well within the acceptable limits. The proposed changes are not considered to materially alter the proposal so as to warrant re-advertising. A copy of the modified plans and updated EME levels are provided at Attachment 8.1.2b.

Lens antennas are used to transmit and receive radio signals as part of the NBN's fixed wireless network rollout in regional and rural areas. They are described as providing a more focused coverage, with additional capacity from a single elevation than a standard panel antenna. This can alleviate the need to add multiple panel antennas in areas subject to increasing demand. The existing facility is a transmission end site being designed to provide wireless broadband services within the local area.

Lens antenna do not meet the criteria of a low impact facility under the definitions contained in the *Telecommunications Act 1997* and the *Telecommunications (Low Impact Facilities) Determination 2018* and therefore require development approval.

Existing NBN Tower Approval

Development approval for construction of the NBN lattice tower was granted on 30 August 2013. The tower was approved in conjunction with three other NBN towers in Hazelvale, Peaceful Bay and Kentdale as part of the roll out of the National Broadband Network (NBN) fixed wireless network. Approval was granted by the Shire under delegated authority and in the absence of formal public consultation having regard to the following factors:

- Telecommunications Infrastructure is an "AA" use in the "Rural" zone – wherein the Council may permit at its discretion the use with no need for statutory advertising, although Council may choose to advertise where it is deemed appropriate;
- Proximity of an existing 50 m high Telstra tower on the subject site;
- An inability to co-locate on the existing Telstra tower within the same property;
- Strategic need for the NBN tower to service the Denmark community; and
- Part 7 of the WAPC *Guidelines for the Location, Siting and Design of Telecommunications Infrastructure* document that states "applications that do comply with the Guiding Principles... should be dealt with expeditiously and need not be advertised, unless required by the relevant town planning scheme".

Low Impact Works

In conjunction with installation of the proposed lens antennas, the following works are also proposed to be undertaken:

- Removal of panel antennas
- Installation of new panel antennas (each less than 2.8 metres in length) resulting in one additional panel antenna
- Relocation of existing antennas
- Installation of associated ancillary equipment in new equipment cabinets/ shelters (total base area less than 7.5m²)

As the above works meet the definition of a Low-impact Facility they are exempt from the requirement to obtain development approval and do not form part of the current application. The exempt works have been advertised by the proponent in the Denmark Bulletin (30 January 2020) and neighbouring properties notified in accordance with the Shire's current protocol.

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework as well as the requirements of Town Planning Scheme No.3, Schedule 2, Part 8, Clause 64 of *the Planning and Development (Local Planning Schemes) Regulations 2015*, and undertook the following level of consultation:

External Consultation:

- Applicant
- Six (6) adjoining landowners inviting comment on the proposal.
- Advert in the Denmark Bulletin (published 16 January 2020), Shire website & notice boards.
- Office of Terry Redman

Internal Consultation:

- Development Co-ordination Unit.

Whilst not statutorily required, public advertising of the proposal was undertaken in accordance with Clause 6.4 of TPS No. 3, with three (3) submissions received, two (2) of which object to the proposal.

Attachment 8.1.2c is the Schedule of Submissions – with the submissions received being entered into the Schedule verbatim. Column 4 of the Schedule of Submissions represents Planning Services comments/response to the submission.

Statutory Obligations:

Town Planning Scheme No.3 (TPS No. 3) specifies the pertinent planning provisions for the proposed use.

Should Council refuse this Development Application, or impose conditions on the Development Approval that the applicant is aggrieved by, as per the provisions of the *Planning and Development Act 2005*, the applicant can apply to the State Administrative Tribunal for a Right of Review.

Policy Implications:

Town Planning Scheme Policy No.5: Setbacks

Budget / Financial Implications:

There are no known financial implications upon either the Council’s current Budget or Long Term Financial Plan.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council’s adopted Strategic Community Plan Aspirations and Objectives in the following specific ways:

Denmark 2027

E1.0 Our Economy

We are an attractive location to live, invest, study, visit and work

- E1.1 To have a locally supported resilient, stable and innovative business community that embraces creativity, resourcefulness and originality.

B3.0 Our Built Environment

We have a functional built environment that reflects our rural and village character and supports a connected, creative and active community.

- B3.1 To have community assets that are flexible, adaptable and of high quality to meet the purpose and needs of multiple users.

Sustainability Implications:

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental considerations relating to the report or officer recommendation. An Environmental Electromagnetic Energy (EME) Report submitted with the application indicates that the proposal is compliant with EME regulatory requirements.

➤ **Economic:**

There are no known significant economic considerations relating to the report or officer recommendation. The provision of reliable high-speed broadband services is important for local businesses and in supporting the local economy.

➤ **Social:**

The provision of reliable broadband services is important to contemporary regional communities and in maintaining social networks.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The proponent may lodge an application for review to the State Administrative Tribunal if the Council’s decision was to refuse the proposal.	Possible (3)	Moderate (3)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Risk: Note: If a decision is made to refuse the application, Council is to provide sound reasoning to support solid defence at the State Administrative tribunal should the applicant wish to pursue a Right of Review.
The approval results in amenity impacts	Unlikely (2)	Moderate (3)	Moderate (5-9)	Not Meeting Community expectations	A condition can be applied to ensure that the antenna are

					appropriately coloured. Planning Services is to ensure landscaping conditions imposed on the original nbn tower are complied with.
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Comment:

In accordance with Town Planning Scheme No. 3 (TPS No.3) the subject site is zoned “Rural” with the purpose and intent of this zone being *to allow for a range of normal rural activities and to protect the land from inappropriate uses.*

Having regard to the definitions within TPS No. 3 the land use class of ‘Telecommunications Infrastructure’ applies to this application – meaning *“land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network.* As per Table 1 – Zoning Table of TPS No.3, the use class of ‘Telecommunications Infrastructure’ is an ‘AA’ use in the Rural Zone that the Council may, at its discretion, permit in the zone.

The *WAPC State Planning Policy 5.2 – Telecommunications Infrastructure* provides guidance on the siting, location and design of telecommunications infrastructure and is to be given due regard in Councils determination in conjunction with the *WAPC Guidelines for the Location, Siting and Design of Telecommunications Infrastructure.* The proposal is compliant with the following relevant key Policy measures:

Policy Measure	Comment
Telecommunications infrastructure should be sited and designed to minimise visual impact.	Notwithstanding that the existing tower is readily visible from various vantage points, the size, number and placement of the lens antenna is unlikely to result in additional visual amenity impacts. The proposed works are confined to the existing tower and will not affect surrounding vegetation or environmental features. A condition can be applied to ensure that the colour of the antenna suitably blends with the tower and surrounding landscape.
Telecommunications infrastructure should be located where it will facilitate continuous network coverage and/or improved telecommunications services to the community.	The existing facility is a transmission end site which has been identified by nbn as suitable for upgrading to provide improved services and coverage to the local community.
Telecommunications Infrastructure should be co-located and whenever possible: (b) Overhead lines and towers should be co-located with existing infrastructure and/or within existing infrastructure corridors and/or mounted on existing or proposed buildings.	The proposed works are to be contained on an existing telecommunications tower thereby meeting the intent of the co-location requirements.

The *Planning and Development (Local Planning Schemes) Regulations 2015* (Schedule 2 Deemed Provisions c.67) outlines those matters that Council, in considering an application for development approval, is to have regard to. A summary of those principles relevant to the application are detailed below.

Matter to be Considered	Response
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	The proposal is considered to be consistent with aims, provisions and standards of TPS3.
(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving;	<p>The property is zoned Rural under TPS No.3 wherein telecommunications infrastructure is a use that can be considered.</p> <p>The proposal is consistent with the established use/development of the site which contains two (x2) telecommunications towers.</p> <p>There are no other draft scheme amendments or planning instruments that affect this proposal.</p>
(c) any approved State planning policy;	<i>State Planning Policy 5.2 Telecommunications Infrastructure</i> applies to the current application. The proposal has been assessed against the policy provisions as outlined above.
(g) any local planning policy for the Scheme area;	TPS3 Policy 5 – Setbacks. The proposal meets the relevant setback requirements applicable to the Rural Zone.
(h) any structure plan, activity centre plan or local development plan that relates to the development;	There is no structure plan applicable to the site.
(k) the built heritage conservation of any place that is of cultural significance;	<p>The site is not included within the State Register of Heritage Places, Appendix VII of TPS3 or identified on the Municipal Heritage Inventory.</p> <p>The site borders Urban Bushland to the east and north that is listed on the Municipal Heritage Inventory (Jamieson Hill) having regard to the value of urban bushland. The works do not impact upon the bushland values of the adjacent reserves.</p>
(l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;	There are no aboriginal cultural heritage considerations applicable to the lot https://maps.daa.wa.gov.au/AHIS/ .
(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;	<p>The existing telecommunications towers represent a prominent feature within the landscape. Established trees on the site provide a backdrop to the towers and offer some intermittent screening when viewed from various vantage points within the adjacent rural residential estate.</p> <p>In the context of the current setting and size of the established towers, the proposed antennas represent a minor addition that will not significantly impact upon the visual amenity of the locality in terms of height, bulk, scale or orientation.</p>
(n) the amenity of the locality including the following: (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development;	<p>The site is situated near the summit of Jamieson Hill, within a vegetated area that integrates with adjacent bushland reserves. Nearby rural residential lots are predominantly cleared with panoramic views towards the townsite and Wilson Inlet.</p> <p>The proposal requires no groundworks or clearing and the minor nature of the antenna additions will not unduly impact upon the established character of the locality, of which the telecommunications towers form a part.</p>
(o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;	The proposal relates to works on an existing tower and will have no impact upon the natural environment or water resources.
(p) whether adequate provision has been made for the landscaping of the land to which the	Landscaping was implemented in accordance with conditions applied as part of the original tower approval.

Matter to be Considered	Response
application relates and whether any trees or other vegetation on the land should be preserved;	<p>Inspections undertaken in 2015 and 2016 confirmed that landscaping met the necessary requirements at the time.</p> <p>A recent site inspection reveals that the planting remains in place (refer site photos) but has likely been impacted by maintenance/ mowing with damage evident that has limited its screening capacity.</p> <p>Although the proposed antenna additions do not warrant additional screening (being confined to the upper level of the tower), Planning Services will pursue compliance under the original approval to ensure vegetation screening is reinstated. nbn has also confirmed their commitment to ensure that the necessary screen planting is provided.</p>
(r) the suitability of the land for the development taking into account the possible risk to human health or safety;	The proposal is compliant with EME Regulatory requirements.
(s) the adequacy of - (i) the proposed means of access to and egress from the site; and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;	The proposal will utilise existing approved access/egress.
(t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;	The proposal will not generate additional traffic movement outside of the construction phase.
(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;	Reliable high-speed broadband services is essential for supporting businesses, the local economy, provision of community services and social networks.
(w) the history of the site where the development is to be located;	Refer to Background section for details relating to the original nbn Tower approval.
(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;	There is no perceived negative impact on the community as a whole arising from approval of the development, with the potential benefits being detailed in point (v) above.
(y) any submissions received on the application;	See Consultation part of report above and the Schedule of Submissions at attachment 8.1.2c.

Community Consultation.

The primary issues raised in submissions relate to:

- Approval of the existing NBN tower;
- Visual impacts;
- Health Impacts;
- Adequacy of landscaping;
- Impact upon property values.

The applicant has been provided an opportunity to respond to the issues raised and their response is provided verbatim as Attachment 8.1.2d.

From a Planning Services perspective the following comments are relevant to the submissions received:

- Notwithstanding concerns that have been raised over the Shire’s approval of the nbn tower, Policy 5.2 requires that the visual impact of development proposals should be made on a case by case basis and as such the current application (being limited to the installation of x2 lens antennas) must be assessed on its own merits. The development application does not provide a mechanism by which Council can revisit or legally rescind approval of the nbn tower.

- The Shire has previously responded to landowner concerns regarding the nbn tower approval process, although it is evident from the submissions that grievances remain. The Shire has established a service promise to notify immediately adjacent landholders, councillors and the local parliamentary member Terry Redman’s office of any proposed additions/ alterations, including ‘low impact facilities’ that are exempt from approval requirements. This protocol has been followed since construction of the tower in 2014.
- State Planning Policy 5.2 and the Guidelines for the Location, Siting and Design of Telecommunications Infrastructure do not apply buffers/ minimum setback requirements for the purpose of assessing telecommunications infrastructure. Telecommunications infrastructure is required to comply with relevant health and safety rules set on a national level. Information provided in conjunction with the application indicates that EME levels will be well within acceptable limits.
- In the context of the scale of the existing tower and the size and placement of the proposed antenna the new installation is unlikely to result in significant visual amenity impacts. A condition is recommended to ensure the antennas are coloured to coordinate with the tower and blend with the sky backdrop (ie. be of light colouration).
- Through the Shire’s approval of the NBN tower screening vegetation was required to be installed adjacent to the NBN compound to mitigate visual impacts for adjacent residential properties. A recent site inspection has confirmed that such landscaping does not meet the necessary standards. The NBN has acknowledged this and confirmed that landscaping will be reinstated to comply with the approved landscaping management plan (Attachment 8.1.2e). Planning Services will follow up separately on this matter to ensure compliance with conditions of the relevant development approval.
- Potential impacts upon property value are not a relevant planning consideration.

Conclusion

In conclusion, Planning Services consider there is unlikely to be any significant adverse visual impact arising from approval of the proposed antenna additions. The proposal has been assessed against State Planning Policy 5.2 Telecommunications Infrastructure and is considered to meet the relevant guiding principles to support development approval being granted.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.2
MOVED: CR GIBSON	SECONDED: CR BOWLEY
That with respect to the development application for the proposed Telecommunications Upgrade – Installation of Two (x2) Lens Antennas at No.26 (Lot 150) Henwood Street, Denmark:	
<ol style="list-style-type: none"> 1. Notes the submissions received. 2. Grants Development Approval subject to the following: 	
<u>Conditions</u>	
<ol style="list-style-type: none"> a) The development shall be carried out and fully implemented in accordance with the attached stamped approved plans dated 5 March 2020, being limited to the installation of two (x2) lens antennas only. b) The lens antennas shall be of light colouration (white/ off-white/ light grey) to coordinate with the colour of the existing tower and sky backdrop. c) The development of the telecommunications infrastructure and associated ancillary works and the ongoing use must not cause erosion or degradation of the subject or surrounding land to the satisfaction of the Shire. 	

- d) All stormwater and drainage run off from all impervious areas is to be retained on-site to the satisfaction of the Shire of Denmark.

Advice

1. From a preliminary review of the information provided, the Shire's Principal Building Surveyor advises that in addition to the standard Building Permit application documentation the following additional information is required:
 - Engineering Certification of the proposed changes to the tower.
2. The proposed operations are required to comply with the *Environmental Protection (Noise) Regulations 1997*.
3. It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for incorrectly located buildings/ structures.
4. It is the responsibility of the applicant to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.

CARRIED UNANIMOUSLY: 9/0

Res: 070320

8.1.3 CONTAINER DEPOSIT SCHEME – PROPOSED SHIRE OF DENMARK REFUND POINT

File Ref:	WST.5.B
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	No.46 (Lot 326) East River Road, Hay
Disclosure of Officer Interest:	Nil
Date:	4 March 2020
Author:	Bohdan Davis, Sustainability Officer
Authorising Officer:	David King, Director Assets and Sustainable Development
Attachments:	8.1.3a – Draft Contract Agreement 8.1.3b – Proposed Layout Plan

Summary:

The Container Deposit Scheme branded as “Containers for Change” will launch on June 2nd 2020. The State wide scheme lets residents return eligible beverage containers to designated refund points for a 10 cent refund, 6 cents will be received by refund point operators for providing the refund and container sorting service.

The former Shire Waste Management Advisory Committee (WMAC) was notified of the Scheme in October 2019, with the WMAC directing officers to submit an Expression of Interest (EOI) to operate a refund point location at Denmark Waste Management and Recycling Facility (DWMRF).

The Shire of Denmark was notified that the EOI was successful on 19/12/2019 and has been working with Western Australia Recycle Renew Return Ltd. (WARREL) in establishing details around the scheme rollout, and expectations of the Shire in its role as a refund point operator.

This report outlines the expectations of the Shire in its role as a refund point operator, and presents a return on investment analysis in implementing the scheme in Denmark.

Background:

The Department of Water and Environmental Regulation (DWER) is the regulating body for the scheme, and has appointed a not-for-profit entity WARRRL as the scheme coordinator in July 2019. DWER has set a minimum network standard, which the scheme coordinator is

responsible for maintaining from 2nd June 2020, this includes One (1) flexible refund point in Denmark.

A flexible refund point must be open a minimum of sixteen (16) hours per fortnight including eight (8) weekend hours. Five (5) other flexible refund points will operate across the Great Southern and two (2) full time refund points in the City of Albany. The refund point operators role is to receive eligible containers from customers, provide front line customer service, sort containers into 9-11 material types, provide the customer with the associated refund and securely store sorted containers pending later removal from WARRRLs logistics provider.

WARRRL intends to have 172 refund points operating at the launch of the scheme on 2nd June 2020, this will grow to 114 full time refund points and 115 flexible points across WA by June 2021. Refund points may be over the counter operations, reverse vending machines, or bag drop locations.

The Container Deposit Scheme aims to;

- Increase recovery and recycling of empty beverage containers;
- Reduce the number of empty beverage containers that are disposed of as litter or to landfill;
- Ensure that first responsible suppliers of beverage products take product stewardship responsibility;
- Provide opportunities for social enterprise and benefits for community organisations; create opportunities for employment; and
- Complement existing collection and recycling activities.

The *Waste Avoidance and Resource Recovery Amendment (Container Deposit) Act 2019* sets the foundation for responsibility of beverage containers to be placed on the first responsible supplier. The suppliers must pay for the cost of operating the scheme including the 10 cent consumer refunds, this per container fee will be amended as required on a six (6) monthly cycle and is based on the recovery rate of eligible containers, the initial fees have been based on a 42% redemption rate through refund points and 22.1% redemption through Material Recovery Facilities (MRF’s). The fees set for the start of the scheme can be seen in Table 1. The fees will in all likelihood be passed directly to the consumer.

Table 1 Fees payable as of June 2nd 2020 by first responsible supplier by material type

Material Type	Cost per container supplied (ex GST)	Plus GST	Cost per container supplied (Inc GST)
Aluminium	11.39 cents	1.14 cents	12.53 cents
Glass	11.84 cents	1.18 cents	13.02 cents
HDPE	11.85 cents	1.19 cents	13.04 cents
PET	11.76 cents	1.18 cents	12.94 cents
LPB	12.17 cents	1.22 cents	13.39 cents
Other materials	12.17 cents	1.22 cents	13.39 cents
Weighted average cost	11.65 cents	1.17 cents	12.82 cents

Eligible containers are between 150ml and 3 Litres and include soft drink, water, and flavoured milk. Sports drinks, beer and premixed drinks. Milk, cordial, wine and health tonics are amongst the excluded containers. Eligible containers must be marked with the refund mark and the lids must be removed. Once containers are accepted at a refund point the must not be disposed of in a prohibited manner.

Cleanaway has been awarded the logistics provider contract for the Great Southern region, the logistics providers will supply collection cage infrastructure to the refund point operator at no cost to the operator. The final details of the collection infrastructure were provided to the Shire of Denmark on 3/3/2020. Once sufficient collection cages are filled with the sorted materials (12 x 2m3 cages has been noted as the nominated quantity). Further information on the scheme and how it works is shown in Figure 1.

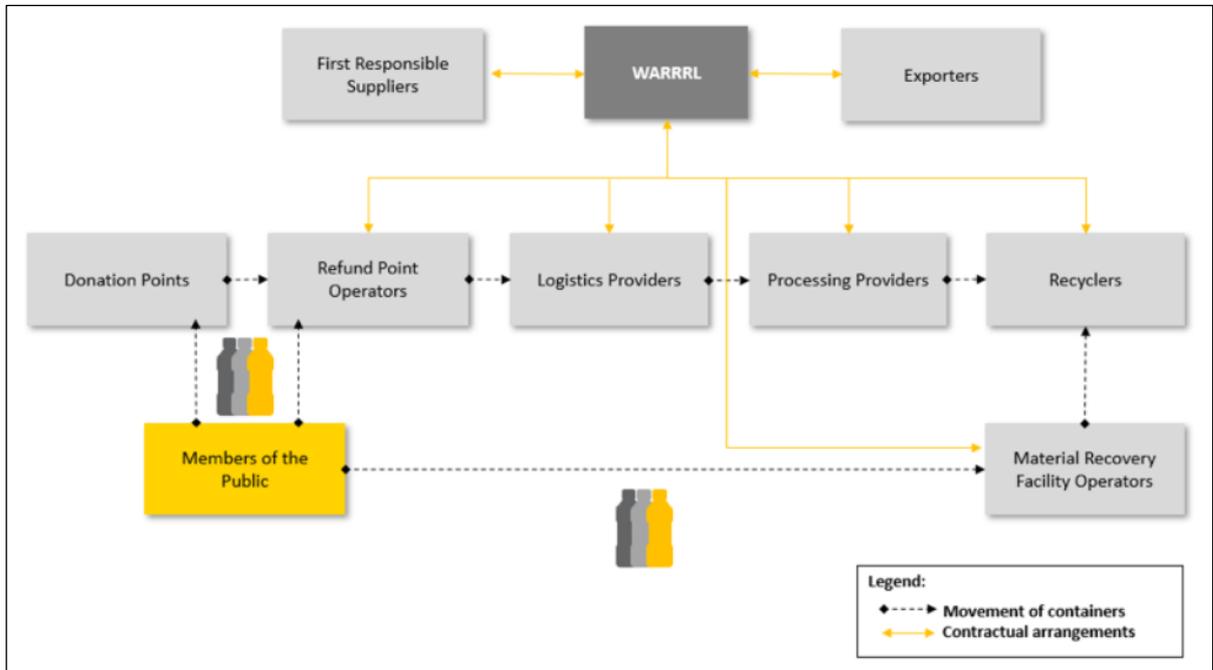


Figure 1 Container Deposit Scheme layout movement of containers and contractual arrangements

WARRRL and Cleanaway representatives met at the proposed DWMRF site on 10th of February to walk through the potential site layout options. Three (3) initial options were assessed during this site visit, Shire of Denmark officers have developed a business case for the preferred sitting option which is outlined in the comment section of this report.

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council’s Community Engagement Policy P040123 and the associated Framework and undertook the following level of consultation:

External Consultation:

Green Skills have been involved in determining options and possible options for their involvement in the refund point operation

Community Resource Centre was consulted in the EOI stage

Internal Consultation:

Waste Reform Working Group (formally Waste Management Advisory Committee) have been informed through the process. However, due to the tight timeframe the group have not been party to final modelling until this time.

WARRRL Consultation

WARRRL will perform community information sessions across the state over March and April. A contract manager has been appointed for the Shire of Denmark and will help in staff training where required. Point of sale software is provided by WARRRL and training will be provided for the use of this as required.

Statutory Obligations:

Nil

Policy Implications:

Nil

Budget / Financial Implications:

Budget implications in this section refer to the recommended option 5 as detailed in the comment and conclusion section of this report.

The initial capital cost of implementing the scheme is estimated at \$70,000. The breakup of this estimation is provided in Table 2 below.

Table 2 – Cost Estimate for Initial Capital Costs

Item	Cost
Shed + Fit out	\$51,000
Sorting Infrastructure	\$4,500
IT equipment	\$3,000
Miscellaneous (PPE, Till etc.)	\$2,500
Contingency (15%)	\$9,000
Total	\$70,000

The scheme will generate \$0.06 per eligible container processed. In order to ascertain the return on investment, financial modelling of the operations has been undertaken.

The following assumptions and allowances have been made for the purpose of the model:

1. Capital Cost of \$70,000 required as an initial capital investment.
2. Capital Cost modelled as a loan repayment to represent the opportunity cost of the upfront capital. The loan particulars are as follows:
 - a. Interest of 3.15%
 - b. 0.7% fee on annual loan principle outstanding
 - c. 10 year term
3. 0% income inflation
4. 2.5% cost inflation excluding loan.
5. 1.2% maintenance costs on infrastructure
6. Discount rate 0.04
7. \$42 per hour labour costs per person
8. 2 staff during operational hours
9. Minimum service of 8 hours per week
10. 6203 population (2016 Census +1.5% per year)
11. 1.5 containers per person per day (WARREL advice)
12. 50% reduction in 1st year take-up

Based on the above assumptions the Net Present Value (NPV) over a 10 year period is zero at a % population take-up of 25%. This equates to:

1. 16283 processed containers per week
2. 17 containers processed per minute per person

The key variable in the modelling is the estimated % take-up of the service. Figure 1 below demonstrates the sensitivity analysis of this key assumption.

The blue line in Figure 1 represents the 10 year NPV against population take-up. As noted above, it can be seen that the breakeven point is approximately reached if 25% of the population are using the service. A take-up of 15% results in a negative 10 year NPV of -\$157,000, whilst a 35% take-up results in a positive NPV of \$152,000.

Advice from WARRRL is that on average in the Eastern States a take-up of between 40-50% is realised after the first few years. However, information on this is commercial in nature and therefore difficult to validate.

The red line represents the number of containers required to be counted based on two (2) staff working the 8 hours per week. Advice from WARRRL is that a trained operator will count between 20 and 25 containers per minute over an 8 hour day. Noting that in this instance a 4 hours day is assumed, it would be expected that operator would count at the higher end of this scale.

This ‘sweet spot’ in operator container count is depicted by the red shaded area and correlates to a % population uptake of between 29-37%. It is noted that in this sweet spot all NPV returns are positive.

In the instance that 37% population take-up is exceeded, it would be necessary to include a third operator. At this point, even with the third operator working the full 8 hour week a NPV of \$25,000 is returned. However, it is unlikely that the full 8 hours additional labour would be required until the take-up rate exceeds 45%.

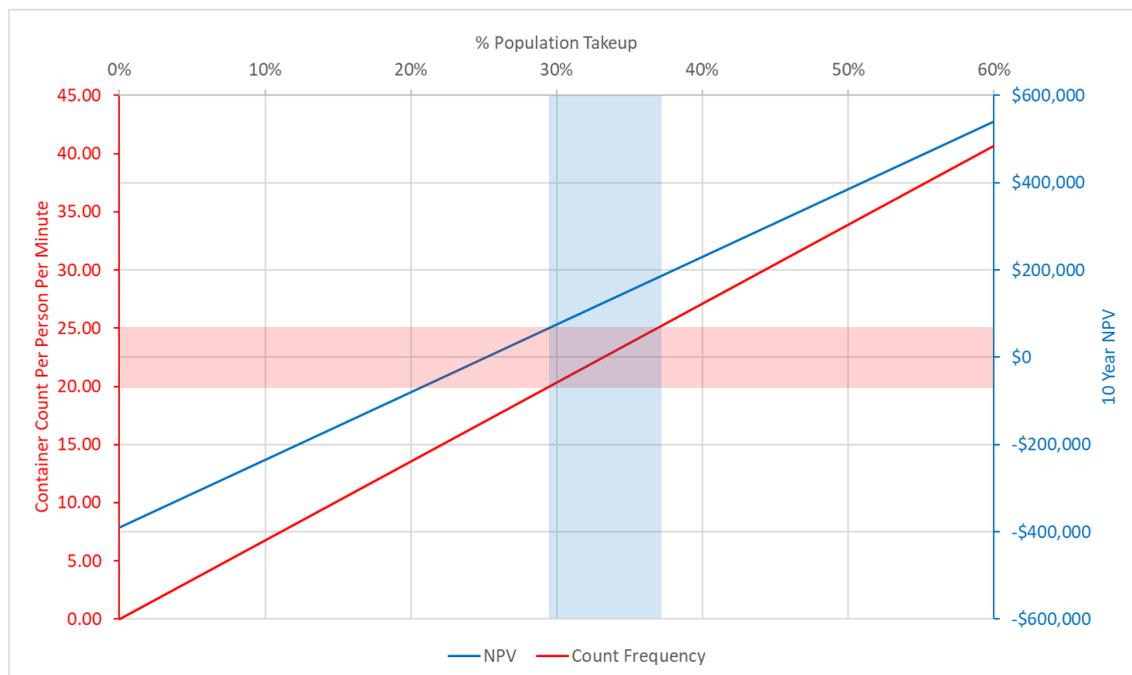


Figure 1 – NPV and Container Count Per Person Against % Population Take-up (2 Staff)

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council’s adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

N2.0 Our Natural Environment

Our natural environment is highly valued and carefully managed to meet the needs of our community, now and in the future.

N2.1 To preserve and protect the natural environment

N2.3 To reduce human impact on natural resources, reduce waste and utilise renewable energy

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

Reduction of litter, increased resource recovery resulting in decreased use of virgin manufacturing materials and associated greenhouse gas emissions.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

Community groups will be encouraged to participate in the scheme as donation points as a source of revenue raising.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Reputational Risk: That WARREL do not accept the amended timeframe and decide not to operate an aggregation point in Denmark	Possible (3)	Minor (2)	Moderate (5-9)	Inadequate Natural Environ.Man agement Practices	Accept Risk
Financial Risk: That operational and capital repayment costs are not covered by income	Possible (3)	Moderate (3)	Moderate (5-9)	Inadequate Supplier / Contract Management	Accept Risk
Financial Risk: That WARREL terminate the contract prematurely or do not renew past the 5-year timeframe	Possible (3)	Moderate (3)	Moderate (5-9)	Inadequate Supplier / Contract Management	Manage by constructing the infrastructure such that it can be relocated with minimal abortive cost and managing employment conditions of the operating staff.

Comment/Conclusion:

A number of options were considered for the location of the infrastructure.

Option 1

Utilising existing Green Skills cutlery and crockery shed coupled with use of Shire of Denmark Recycling Shed located opposite the DWMRF gate house. This option was considered in depth due to its reduced financial cost to retro fit the existing shed.

Pros

- i. Low initial start-up cost
- ii. Proximity to existing gate house and gate staff member for additional assistance

Cons

- i. Limited roof height and overall floor space for movability of Cleanaway forklift or other associated machinery for warehousing activities

- ii. Difficulty in contractual arrangements with Green Skills to utilise an operational space in their existing Tip Shop
- iii. Parking and traffic flow issues already experienced at the recycling shed would be exaggerated
- iv. Poor condition of the existing shed could lead to additional safety concerns and maintenance costs in the medium to long term
- v. Limited space for storage of Cleanaway preferred 2m² storage cages
- vi. Lack of current adequate surfacing for warehousing activities (noting that Green Skills do have a grant available for the surfacing of this space – though no work has been completed to date)

This option was ultimately discounted due to limitation in space which would require a larger shed to be constructed into the future therefore making all cost abortive.

Option 2

New shed to the west of the existing recycling shed

Pros

- i. Located outside of existing Green Skills Tip Shop operational area
- ii. Close proximity to existing site gate house for additional staff assistance
- iii. Potential to tie in design for an overhaul of the site gate house and entrance to the site

Cons

- i. Parking and Traffic flow issues through the existing gate house
- ii. Operation outside of the boom gate may disrupts the flow of operations at the site
- iii. Cost of earthworks for removal of *Eucalyptus Globulus* Bluegum and further site works for drainage and foundations are likely higher than other options

This option was ultimately discounted due to high cost and parking issues.

Option 3

Utilisation of Shire sites outside of the DWMRF

Pros

- i. Potential use of existing infrastructure would reduce initial start-up costs and roll out time line

Cons

- i. Only one suitable location noted
- ii. Planning constraints at other Shire sites
- iii. Existing leases on other available Shire Sites would constrain immediate mobilisation

This option was ultimately discounted due to planning issues and the fact that splitting the waste reuse between sites is not best practise.

Option 4

Third party operation of a refund point

Pros

- i. Removal of risk for the Shire of Denmark

Cons

- i. Lack of interest from third parties at the EOI stage

Option 5 - Preferred option

New purpose built shed inside the DWMRF compound as shown in Attachment 8.1.3b.

Pros

- i. Minimal intrusion into the existing Green Skills Tip Shop operations
- ii. Large open space for parking and logistics provider load out
- iii. Low intrusion to the gate house space which may be revamped in the near future

Cons

- i. Infrastructure costs higher than Option 1
- ii. Lease negotiation with Green Skills required to secure the location
- iii. This option is not necessarily tied into future site layout design (No finalised plan is held for the site at this stage)

Although there is some ambiguity in the future facility layout, the infrastructure required for this option could be constructed so that relocation of the superstructure and fittings can be enabled. Any abortive cost necessary to relocate can therefore be minimised.

Ultimately this option is recommended as it will provide a full medium term solution that provides operational efficiency and suitable functionality. However, this option hinges on a successful lease negotiation with Green Skills to secure the proposed area.

It is proposed that a on the spot cash service will be offered 8 hours a week, including a 4 hour period at the weekend which is in line with the WARREL service standard. It is expected that a bag drop solution with automatic payment option could also be provided during DWMRF opening hours.

Timing

The current WARRRL contract requires the service to commence on the 2nd June 2020. Officers have been diligent in responding to information from WARRRL, however, it has not been until the present time that officers have had the required information to make formal recommendation to Council.

Project milestones and anticipated dates have been included in Table 3 below. It can be seen that the expected commencement date is 31st August 2020. It is therefore recommended that the contractual agreement is amended to reflect this.

Table 3 - Milestones

Item	Milestone	Date
1	Amended lease with Green Skills	10 th April 2020
2	Signed contract with WARRRL	1 st May 2020
3	Design and construct tender award for infrastructure	5 th June 2020
4	Construction complete	17 th July 2020
5	Commissioning	31 st July 2020
6	Facility open	31 st August 2020

Contractual Requirements

The draft contract is included as attachment 8.1.3a. Some of the key particulars are outlined below:

1. Contract term of 5+2 years from scheme commencement date
2. WARRRL to supply point of sale software and logistics storage infrastructure and all services of sorted product once sorted into supplied storage infrastructure
3. The Refund point operator must;
 - Comply with a minimum service standard detailed in the agreement *Schedule 2 Service Specification*

- Count and sort containers into a minimum of 9 different material types (possible to change to 11 different material types in the future)
- Securely store sorted and unsorted containers
- Provide refund payments by cash or by electronic payment direction through the point of sale software. Vouchers maybe issued if approved by WARRRL. Payment is to be made to each person presenting an empty eligible container at the refund point
- Identify any fraudulent activity and report to the scheme coordinator immediately
- Shire of Denmark (SoD) must operate the refund point for the specified minimum operating hours (16 hours per fortnight including 8 hours on the weekend)
- WARRRL will provide initial IT software training and help desk support, further staff training and site mobilisation will be the responsibility of SoD
- WARRRL must pay SoD the refund amount and the handling fee within 5 business days of receiving a Payment Claim, payment claims must be submitted by SoD the second business day of the next operating week.

Officers have assessed the contract in detail in conjunction with similar contracts offered to alliance partners and are comfortable with the conditions with the exception of the start date which is proposed to be negotiated to 31st August 2020.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.3
MOVED: CR LEWIS	SECONDED: CR SEENEY
That with respect to the implementation of the Container Deposit Scheme Council:	
1. Authorise the CEO to negotiate a lease amendment with Green Skills to enable the construction of the shed as detailed in attachment 8.1.3b	
2. Authorise the CEO to sign the Container Deposit Scheme contract with WARRRL subject to:	
i) Successful lease negotiation with Green Skills as per item (1) above.	
ii) Negotiation with WARRRL on a revised start date week beginning 31 st August 2020	
3. Subject to completion of (1) and (2), approve the transfer of \$70,000 from the Waste Reserve into GL 1021054 to fund the capital expenditure required to implement the scheme.	
CARRIED UNANIMOUSLY: 9/0	Res: 080320

8.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

8.2.1 DECISIONS FROM ANNUAL GENERAL MEETING OF ELECTORS

File Ref:	FIN.8A
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	28 February 2020
Author:	Lee Sounness, Executive Manager Corporate Services
Authorising Officer:	David Schober, Acting Chief Executive Officer
Attachments:	Nil

Summary:

Council is requested to consider a decision made at the Annual Meeting of Electors regarding developer contributions and contributions to roadworks.

Background:

At the Shire of Denmark Annual Electors Meeting, held on Tuesday, 4 February 2020, the following decision was made.

“The Shire of Denmark write to the Department of Local Government and ask them to review and seek advice on the process of movement of money from the restricted creditor Roadworks account to revenue, without either doing the works or creating a liability on the balance sheet to ensure the works can be completed in the future.”

Pursuant to legislation, the Council are required to consider the decision.

Consultation:

Advice has been sought from the Department of Local Government, Sports and Cultural Industries to ascertain their opinion of what guidance Shire Officers could provide the Council to assist with their consideration of the decision.

The Office of Auditor General advised the Shire that they were not able to provide advice on the matter. Auditors are not permitted to guide, direct or provide advice as this can impeach on their independence.

Statutory Obligations:

Section 5.33 of the Local Government Act 1995 directly relates to decisions made at Electors Meetings.

- (1) *All decisions made at an electors’ meeting are to be considered at the next ordinary council meeting or, if that is not practicable —*
- (a) *at the first ordinary council meeting after that meeting;*
 - or
 - (b) *at a special meeting called for that purpose,*
- whichever happens first.*
- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors’ meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

Policy Implications:

Nil

Budget / Financial Implications:

There are no known financial implications upon either the Council’s current Budget or Long Term Financial Plan.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council’s adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

L5.0 Our Local Government

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government.

L5.1 To be high functioning, open, transparent, ethical and responsive.

L5.3 To be decisive and make consistent and well considered decisions.

L5.4 To be fiscally responsible.

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

The Office of Auditor General (OAG) have endorsed the financial reports for the year ended 30 June 2019. Should Council choose to accept the decision made at the Annual Electors Meeting (AEM), it could suggest that the OAG has acted inappropriately. It is further acknowledged that the Audit Advisory Committee have also endorsed the financial position, noting the changes to the Accounting Standards.

The implication on Council should it accept the AEM Decision is substantial and binding in respect of officially stating the OAG has not carried out its responsibilities in providing an audit opinion.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That there is an expectation from Electors that Council will endorse any decisions made at electors' meetings.	Possible (3)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Risk

Comment/Conclusion:

Pursuant to s.5.33 of the Local Government Act 1995, the Council are required to consider any decisions made at electors' meetings.

Following investigation and discussions with the Department of Local Government, Sport and Cultural Industries, Officers have recommended that Council decline the Elector's decision to write to the Department for the following reasons;

1. The treatment of the Restricted Creditors – Contribution to Roadworks is in accordance with the Local Government Act 1995, Local Government (Financial Management) Regulations 1996, applicable Australian Accounting Standards and the financial statements audited by the Office of Auditor General (OAG). The unqualified audit opinion of the OAG, as stated in the financial documents presented, confirms that accounting treatment and disclosures are in their opinion:
 - a) based on proper accounts and records; and
 - b) fairly represents, in all material respects, the results of the operations of the Shire for the year ended 30 June 2019 and its financial position at the end of that period in

- accordance with the Local Government Act 1995 (the Act) and, to the extent that they are not inconsistent with the Act, Regulations or Australian Accounting Standards.
2. The 2018/2019 Annual Financials and Auditors Report have been endorsed by the Audit Advisory Committee, adopted by Council and accepted at the Annual General Meeting of Electors held on 4 February 2020.

The accounting treatment of restricted creditors will change in the 2019-20 financial year, when revenue will only be recognised once the work has been undertaken. This includes changes to Australian Accounting Standards Board 1004, 1058 and 15 for the recognition of revenue and the requirement to set up Contract Liabilities during the 2019/2020 year for contributions received for which performance obligations have not been met.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.2.1
MOVED: CR GIBSON	SECONDED: CR BOWLEY

That in consideration of the decision made at the 2020 Annual Electors Meeting held on 4 February 2020 Council acknowledge the decision and resolve not to write to the Department of Local Government, Sport & Cultural Industries seeking a review and advice on the Shire’s process of movement of money from the restricted creditor Roadworks account to revenue, without either doing the works or creating a liability on the balance sheet to ensure the works can be completed in the future, for the following reasons;

1. The treatment of the Restricted Creditors – Contribution to Roadworks is in accordance with the Local Government Act 1995, Local Government (Financial Management) Regulations 1996, applicable Australian Accounting Standards and the financial statements audited by the Office of Auditor General (OAG). The unqualified audit opinion of the OAG, as stated in the financial documents presented, confirms that accounting treatment and disclosures are in their opinion:
 - a) based on proper accounts and records; and
 - b) fairly represents, in all material respects, the results of the operations of the Shire for the year ended 30 June 2019 and its financial position at the end of that period in accordance with the Local Government Act 1995 (the Act) and, to the extent that they are not inconsistent with the Act, Regulations or Australian Accounting Standards.
2. The 2018/2019 Annual Financials and Auditors Report have been endorsed by the Audit Advisory Committee, adopted by Council and accepted at the Annual General Meeting of Electors held on 4 February 2020.

AMENDMENT	
MOVED: CR BOWLEY	SECONDED: CR SEENEY

That part 3 be added to read as follows;

3. A full review of all Shire of Denmark developer contributions and donations has been completed by relevant officers. All outstanding contract liabilities where performance obligations haven’t been met will be brought to account as per the relevant accounting standards from July 1, 2019. Subject to audit verification and final confirmation, \$131,967.58 of developer contributions recognised as revenue in 2018/19, will be recognised as contract liabilities in the 2019/2020 Annual Financial report.

CARRIED UNANIMOUSLY: 9/0	Res: 090320
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AMENDED MOTION	
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That in consideration of the decision made at the 2020 Annual Electors Meeting held on 4 February 2020 Council acknowledge the decision and resolve not to write to the Department of Local Government, Sport & Cultural Industries seeking a review and advice on the Shire’s process of movement of money from the restricted creditor Roadworks

account to revenue, without either doing the works or creating a liability on the balance sheet to ensure the works can be completed in the future, for the following reasons;

1. The treatment of the Restricted Creditors – Contribution to Roadworks is in accordance with the Local Government Act 1995, Local Government (Financial Management) Regulations 1996, applicable Australian Accounting Standards and the financial statements audited by the Office of Auditor General (OAG). The unqualified audit opinion of the OAG, as stated in the financial documents presented, confirms that accounting treatment and disclosures are in their opinion:
 - c) based on proper accounts and records; and
 - d) fairly represents, in all material respects, the results of the operations of the Shire for the year ended 30 June 2019 and its financial position at the end of that period in accordance with the Local Government Act 1995 (the Act) and, to the extent that they are not inconsistent with the Act, Regulations or Australian Accounting Standards.
2. The 2018/2019 Annual Financials and Auditors Report have been endorsed by the Audit Advisory Committee, adopted by Council and accepted at the Annual General Meeting of Electors held on 4 February 2020.
3. A full review of all Shire of Denmark developer contributions and donations has been completed by relevant officers. All outstanding contract liabilities where performance obligations haven't been met will be brought to account as per the relevant accounting standards from July 1, 2019. Subject to audit verification and final confirmation, \$131,967.58 of developer contributions recognised as revenue in 2018/19, will be recognised as contract liabilities in the 2019/2020 Annual Financial report.

THE AMENDED MOTION BECAME THE SUBSTANTIVE MOTION WHICH WAS PUT & CARRIED ANANIMOUSLY: 9/0

Res: 100320

8.2.2 ADOPTION OF 2019/2020 BUDGET REVIEW

File Ref:	FIN.9
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	3 March 2020
Author:	Scott Sewell, Accountant
Authorising Officer:	Lee Sounness, Executive Manager Corporate Services
Attachments:	8.2.2a – 2019/2020 Statement of Budget Review 8.2.2b – 2019/2020 Detailed Statement of Budget Review

Summary:

To consider and adopt the Budget Review as presented in the attached Statement of Budget Review for the period 1 July 2019 to 31 January 2020.

Background:

Council adopted its 2019/2020 Municipal Budget at its special meeting held 30 July 2019. In accordance with Regulation 33A of the Local Government (Financial Management) Regulations 1996 local governments are required to carry out a review of their annual budget after six months and Council is required to consider the results of this review.

A detailed listing of the budget review summary with recommended changes to the adopted budget is included as an attachment to this report. (Refer Annexure B)

Consultation:

As part of the review process direct consultation has occurred with the Chief Executive Officer and all Directors with input from Managers in relation to the status of budget projects included within their area of responsibility.

Statutory Obligations:

Local Government Act 1995 section 6.2 Municipal Budget
 Local Government (Financial Management) Regulations 1996 Regulation 33A

Regulation 33A. Review of budget

- (1) *Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.*
- (2A) *The review of an annual budget for a financial year must —*
 - a) *consider the local government’s financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and*
 - b) *consider the local government’s financial position as at the date of the review; and*
 - c) *review the outcomes for the end of that financial year that are forecast in the budget.*
- (2) *Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.*
- (3) *A council is to consider a review submitted to it and is to determine* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*
**Absolute majority required.*
- (4) *Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.*

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

In order to determine the expected financial position as at 30 June 2020, the budget review financial statements contain all actual revenue and expenditure totals at Program level to 31 January 2020, (refer page 1 of Annexure A). The proposed adjustments to accounts or jobs and the recommended revised budget for those line items with a brief explanation of the circumstances that have led to the suggested amendment are similarly included (refer Annexure B). Further details surrounding some of the more significant items listed in the review are also provided later within this report.

The 2019/2020 Municipal Budget was adopted with an estimate of a zero surplus at year end. Council has considered items that will have an impact on the budget but has not made any formal amendment to the budget since its original adoption.

The items already considered which will affect the budget are as follows:

- 1. November 2019 – Council resolution to write-off rates for Hangar Lease A5420.
- 2. February 2020 – Council resolution to underwrite the Denmark Visitor Centre in relation to Amazing South Coast Tourism Inc. to a maximum amount of \$23,405.

In summary, the Statement of Financial Activity shows the following proposed amendments to the adopted budget based on year end projections:

Table: 1

	Adopted Budget	Budget Amendment	Revised Budget
	\$	\$	\$
Operating Revenue	\$12,589,494	\$(412,058)	\$12,177,436
Operating Expenditure	\$ (16,030,241)	\$(537,364)	\$(16,567,605)
Net Operating Surplus (Deficit)	\$ (3,440,747)	\$(949,422)	\$(4,390,169)

Non-Operating Grants	\$2,715,774	\$33,000	\$2,748,774
Net Result	\$ (724,973)	\$ (916,422)	\$(1,641,395)
Depreciation	\$4,469,600	\$168,000	\$4,637,600
Adjustments to provisions	\$ -	\$ -	\$ -
(Profit)/Loss on Sale of assets	\$174,900	\$107,000	\$281,900
Capital Expenditure	\$(5,926,813)	\$662,000	\$(5,264,813)
Transfer to Reserves	\$(317,170)	\$ -	\$(317,170)
Transfer from Reserves	\$1,380,000	\$ -	\$1,380,000
Proceeds from Disposal of Assets	\$156,000	\$ -	\$156,000
Repayment of Debentures	\$ (298,573)	\$ -	\$(298,573)
S/S Loan Income	\$53,853	\$ -	\$53,853
Restricted Grants Utilised	\$182,931	\$ -	\$182,931
Opening Surplus/(Deficit) July 1 B/Fwd	\$850,243	\$(20,578)	\$829,665
Closing Surplus/(Deficit) June 30 C/Fwd	\$ -	\$ -	\$ -

The following general overview is provided on the financial reporting result for the period ended 31 January 2020, which have been projected out to an estimate as at 30 June 2020:

Surplus Brought Forward

The budget for 2019/2020 was adopted on the basis of a surplus brought forward of \$850,243. The final audited financial statements for the 2018/2019 financial year confirmed a closing surplus position of \$829,665, a net difference of **(\$20,578)** lower than budgeted. The variance in the estimated surplus brought forward was caused by finalisation of year-end accruals processed after the adoption of the budget that were of marginal greater value than provisionally estimated. This shortfall has been factored in to the overall budget review to bring it back to a balanced budget estimate as at 30 June 2020. This can be seen in table 1 included earlier in this report.

OPERATING REVENUE

The total operating revenue estimate for 2019/2020 has been decreased by **\$ 412,058** from the adopted budget. Details of the significant items that have contributed to this variance (rounded) are listed in Annexure B (Detailed Statement of Budget Review) and are further explained below:

General Purpose Funding – Revenue Reduction (\$ 69,000)

Revenue gains from rates recovery legal costs reimbursements and instalment charges of \$25,000 - (refer lines 2 & 3 of Annexure B)

Revenue reduction after confirmation of adjusted amounts for Council's Annual Financial Assistance Grants allocation (\$74,048) - (refer lines 4 & 5 of Annexure B)

Adjustment to earnings estimate for Interest on Investments by \$20,000 due to cuts in official interest rates by the RBA – (refer line 6 of Annexure B)

Governance – Revenue Gain \$ 15,000

Higher than expected revenue mainly attributed to reimbursements/contributions and a higher than expected LGIS Insurance rebate – (refer lines 17, 18 & 19 of Annexure B)

Law, Order & Public Safety – Revenue Gain \$ 35,000

Confirmation of additional Grant income received from the Fire Mitigation Fund – (refer line 23 of Annexure B)

Education & Welfare – Revenue Gain \$ 27,000

Adjustment to grant funding distribution relating to new, adjusted or expanded wellbeing programs – (Refer lines 29 & 30 of Annexure B)

Recoup of funds expended for upgrade to Old Post Office Building – (Refer line 27 of Annexure B)

Health – Revenue Reduction (\$ 15,500)

Annual registration renewal fee for Holiday Accommodation not applicable for 2019/2020 year – (refer line 32 of Annexure B)

Housing – Revenue Reduction (\$ 450,000)

Hardy Street property not proceeding to sale as per Council resolution of February 2020 – (refer line 81 of Annexure B)

Community Amenities – Revenue Neutral

Minor adjustments to revenue expectations for provision of various waste services. Reduced revenue estimate in relation cemetery charges – (refer lines 34 - 38 & 44 of Annexure B)

Recreation and Culture – Revenue Reduction (\$ 15,000)

Receipt of unbudgeted grant of \$13,290 to improve beach safety. Unsuccessful grant application of \$24,000 for upgrades to fish cleaning facilities. Minor adjustments to revenue expectations for various programs ran at the Recreation Centre. Reduction of revenue expectation relating to the Community Bus hire due to it being sold earlier in the year – (refer lines 46, 50, 52 & 54 - 56 of Annexure B)

Transport – Revenue Neutral

Main Roads Direct Grant funding \$8,000 higher than budget estimate. Vehicle inspection fee income expected to be \$9,000 lower than initially budgeted – (refer lines 63 & 65 of Annexure B)

Economic Services – Revenue Gain \$ 12,000

Income from the provision of standpipe water higher than budgeted. Income for Building Licences tracking lower than original budget due to lower activity in that area. Revenue from other chargeable Building Surveyor services not budgeted for, have compensated for this shortfall – (refer lines 66 & 69 -70 of Annexure B)

Other Property and Services – Revenue Gain \$ 51,000

A slight reduction to the revenue estimate budgeted from the diesel fuel rebate scheme. Additional reimbursement revenue received in relation to general and workers compensation insurance claims which is offset by additional expenditure – (refer lines 73, 74, 76 & 78 of Annexure B)

OPERATING EXPENDITURE

The total operating expenditure estimate for 2019/2020 has been increased by **(\$537,364)** from the adopted budget. Details of the significant items that have contributed to this variance (rounded) are listed in Annexure B (Detailed Statement of Budget Review) and are further explained below:

General Purpose Funding – Additional Expenditure (\$ 41,000)

Increase to budget provision for Rates Write-Off and Rates Collection Fees cost most of which is offset by additional revenue recoups – (refer lines 7 & 8 of Annexure B)

Governance – Expenditure Saving \$ 3,000

Adjustment to budget expenditure provisions based on year to date trends or other known circumstances – (refer lines 10 – 16 of Annexure B)

Law, Order & Public Safety – Additional Expenditure (\$ 308,000)

Adjustments to budgeted expenditure. \$70,000 of this increased expense relates to Strategic Fire Management and Fire Mitigation Activities, 50% of which is grant funded. There is also

a \$7,000 saving in insurance premium costs relating to fire and emergency services. The remaining \$245,000 additional expense is made up of non-cash adjustments relating to depreciation and loss on sale of fire equipment assets – (refer lines 20 - 22 & 24 - 25 of Annexure B)

Education and Welfare – Additional Expenditure (\$ 36,000)

Costs associated with receipt of matching grant income \$13,000 – (refer lines 28 & 31 of Annexure B)

Cost relating to the refurbishment of the Old Post Office Building, which are fully recoverable as mentioned earlier in this report – (refer line 26 of Annexure B)

Housing – Additional Expenditure (\$ 35,000)

Adjustment to budget to allow for additional costs required for the Hardy Street site remediation as per Council resolution – (refer line 79 of Annexure B)

Community Amenities – Additional Expenditure (\$ 39,000)

Adjustment to budget expenditure provisions based on year to date trends or other known circumstances – (refer lines 33, 39, 40, 41, & 45 of Annexure B)

Recreation & Culture – Additional Expenditure (\$ 52,000)

Adjustment to budget expenditure provisions based on year to date trends or other known circumstances. It should be noted that this includes a non-cash depreciation expense adjustment totalling \$30,000 – (refer lines 47, 48, 49 & 53 of Annexure B)

Transport – Expenditure Neutral

No amendments are proposed to the operational maintenance budget for this program. Amendments relate to capital works program only.

Economic Services – Expenditure Saving \$8,000

Cost savings on adopted budget estimate in relation to alliance projects and additional costs agreed as per Council resolution in February 2020 for Amazing South Coast Tourism Inc. – (refer lines 67 & 68 of Annexure B)

Other Property & Services – Additional Expenditure (\$56,000)

Adjustment to budget expenditure provisions based on year to date trends or other known circumstances, mostly recouped as per operating income notes detailed earlier in this report – (refer lines 71, 72, 75 & 77 of Annexure B)

NON-OPERATING REVENUE

Non-operating grants have increased by **\$33,000** overall to budget. This is due to a capital grant of \$24,000 towards the upgrade of fish cleaning facilities was not approved but additional funding of \$57,000 has been factored in for Roads to Recovery funding. This is identified in the reconciliation table earlier in this report and is further explained on lines 51 and 64 of Annexure B.

CAPITAL EXPENDITURE

A reduction of **\$662,000** in capital expenditure is proposed as follows:

Table: 2

Expense Type	Budget Amount	Adjustment	Revised Budget
Capital Works on Land & Buildings	\$1,608,857	(\$480,000)	\$1,128,857
Road Infrastructure Capital Works	\$3,716,871	(\$150,000)	\$3,566,871

Recreation Infrastructure Capital Works	\$65,000	(\$32,000)	\$33,000
Other Infrastructure Capital Works	\$106,085	\$0	\$106,085
Purchase Plant & Equipment	\$430,000	\$0	\$430,000
Purchase Furniture & Equipment	\$0	\$0	\$0
Total	\$5,926,813	(\$662,000)	\$5,264,813

Capital works on land and buildings will decrease by (\$480,000)

- (\$450,000) for Hardy Street not proceeding
- (\$ 30,000) for savings on Thornton Park Ablutions
- (refer lines 42 & 80 of Annexure B)

Capital works on road infrastructure expense will decrease by (\$150,000),

- (\$180,000) for Rail Trail Bridge. Co funding application unsuccessful. Project deferred to 2020/21
- \$20,000 for WOW Trail construction. Additional funds required
- \$89,000 McLeod Road MRWA construction. Adjustment to costing.
- (\$54,000) Parker Road MRWA construction. Adjustment to costing.
- (\$35,000) Campbell Road MRWA construction. Adjustment to costing.
- \$10,000 Kernutts Road Blackspot construction. Additional funds required

Capital works on recreation infrastructure expense will decrease by (\$32,000),

- \$32,000 for upgrade to fish cleaning facilities not proceeding

Other Items to Note from the Budget Review Process:

Nil

Should Council accept the Officer recommendation to amend the budget as per the attached summary, the overall net impact on the end of year position is NIL as it maintains the assumption of a zero, year-end surplus brought forward. This has been achieved by looking at projected gains and reductions in operating revenue, cost savings and overruns in operating expenditure including acknowledgement of the reduced surplus brought forward as at 1 July 2019 as audited.

Strategic & Corporate Plan Implications:

The report and officer recommendation are consistent with Council’s adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

L5.0 Our Local Government

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government.

L5.4 *To be fiscally responsible.*

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental considerations relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic considerations relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Service Interruption: That Council review the Budget and decide not to make any amendments	Rare (1)	Major (4)	Moderate (5-9)	Inadequate Financial, Accounting or Business Acumen	Accept Officer Recommendation

Comment/Conclusion:

The budget review has been prepared to include information required by the Local Government Act 1995, Local Government (Financial Management) Regulations 1996 and Australian Accounting Standards. Council adopted a variance of 10% or greater of the annual budget for each program area in the budget, as a level that requires an explanation or report, with a minimum dollar variance of \$10,000.

The material variance is calculated by comparing budget estimates to the end of month actual amounts of expenditure, revenue and income to the end of the month to which the financial statement relates.

This figure is to be used in the Statements of Financial Activity the Annual Budget Review which is to be undertaken after the first six months of the financial year to assess how the budget is progressing and to estimate the end of the financial year position.

Whilst the mid-year budget review performed by the administration identified some variances in year to date internal allocations and overheads, the attached schedule of proposed amendments makes no recommendation to change the budgets for these items. This is because they are all non-cash expenses and therefore have no impact on the final surplus year end position estimate, it is also quite usual for a disjoint to occur in redistribution of internal costs in the early to midyear period which generally evens out closer to year end.

The Officer recommends that Council adopt the Budget Review as presented and retains the estimated Budget Surplus position carried forward estimate of zero.

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.2.2
MOVED: CR JONES	SECONDED: CR ALLEN
That Council adopt the 2019/2020 Budget Review in accordance with regulation 33A of the Local Government (Financial Management) Regulations 1996, including endorsement of proposed amendments to the 2019/2020 Municipal Budget as detailed in the attached Statement of Budget Review.	
CARRIED UNANIMOUSLY AND BY AN ABSOLUTE MAJORITY: 9/0	Res: 110320

Cr Gearon declares a financial interest in Items 8.2.3 and 8.2.24 on the basis that her spouse is a Manager at the Denmark Community Resource Centre.

5.34pm - Cr Gearon left the room and did not participate in discussion or vote on the matter.

The Deputy Shire President, Cr Allen assumed the chair as the Presiding Person.

8.2.3 FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 JANUARY 2020

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	4 March, 2020
Author:	Scott Sewell, Accountant
Authorising Officer:	Lee Sounness, Executive Manager Corporate Services
Attachments:	8.2.3 – January Monthly Financial Report

Summary:

The attached financial statements and supporting information for the period ending 31 January 2020 are presented for the consideration of Elected Members.

Background:

In order to prepare the attached financial statements, the following reconciliations and financial procedures have been completed and verified;

- Reconciliation of all bank accounts.
- Reconciliation of the Rates Book, including outstanding debtors and the raising of interim rates.
- Reconciliation of all assets and liabilities, including payroll, taxation and postal services.
- Reconciliation of the Sundry Debtors and Creditors Ledger.
- Reconciliation of the Stock Ledger.
- Completion of all Works Costing transactions, including allocation of costs from the Ledger to the various works chart of accounts.

Consultation:

Nil

Statutory Obligations:

It is a requirement of the Local Government Act 1995 that monthly and quarterly financial statements are presented to Council, in order to allow for proper control of the Shire's finances. In addition, Council is required by legislation to undertake a mid-year review of the Municipal Budget to ensure that income and expenditure is in keeping with budget forecasts. It should be noted that the budget is monitored by management on a monthly basis in addition to the requirement for a mid-year review. The attached statements are prepared in accordance with the requirements of the Local Government Act 1995 (s.5.25(1)) and the Local Government (Financial Management) Regulations 1996.

Policy Implications:

Policy P040222 - Material Variances in Budget and Actual Expenditure, relates

For the purposes of Local Government (Financial Management) Regulation 34 regarding levels of variances for financial reporting, Council adopted a variance of 10% or greater of the annual budget for each program area in the budget, as a level that requires an explanation or report, with a minimum dollar variance of \$10,000.

The material variance is calculated by comparing budget estimates to the end of month actual amounts of expenditure, revenue and income to the end of the month to which the financial statement relates.

This same figure is also to be used in the Annual Budget Review to be undertaken after the first six months of the financial year to assess how the budget has progressed and to estimate the end of the financial year position.

A second tier reporting approach shall be a variance of 10% or greater of the annual budget estimates to the end of the month to which the report refers for each General Ledger/Job Account in the budget, as a level that requires an explanation, with a minimum dollar variance of \$10,000.

Budget / Financial Implications:

There are no significant trends or issues to be reported.

Strategic & Corporate Plan Implications:

The report and officer recommendation are consistent with Council's adopted Strategic Plan Objectives and Goals and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

L5.4 To be fiscally responsible

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

Nil

Comment/Conclusion:

As at 31 January 2020, total cash funds held totals \$8,902,097 (Note 4).

Shire Trust Funds total \$850

Reserve Funds (restricted) total \$4,211,931

- \$875,664 of this has been placed on investment for 29 days with the Western Australian Treasury Corporation at the quoted rate of 0.70%,
- \$3,180,095 has been invested with the National Aust. Bank, maturing 31 March 2020 at the quoted rate of 1.55%

- \$156,172 has been invested with the Commonwealth Bank of Australia, maturing 30 March 2020 at the quoted rate of 1.49%

Municipal Funds (unrestricted) total \$4,689,316

- \$2,950,319 is invested with the NAB in 5 Term Deposits, maturing at various dates at an average rate of 1.30%.

It should be noted that Council Policy P040229 – Investments states that in relation to Counterparty Credit Framework that no more than 50% of the total investment portfolio should be held with any one institution. At the end of January 2020 the National Australia Bank held 85.59% of total funds invested, this has been reduced during February 2020 and will be further adjusted during March 2020 to ensure that by the end of March 2020 the invested funds portfolio is in accordance with the adopted policy.

Key Financial Indicators at a Glance

The following comments and/or statements provide a brief summary of major financial/budget indicators and are included to assist in the interpretation and understanding of the attached Financial Statements:

- Taking into consideration the adopted Municipal Budget and any subsequent year to date budget amendments identified including the mid-year budget review (refer Note 5), the 30 June 2020 end of year position is estimated to be \$0 which is in line with budget projections (Statement of Financial Activity).
- Operating revenue and expenditure is generally in line with year to date budget predictions for 31 January 2020 (Statement of Financial Activity) except for items referenced in Note 5(a).
- The Rates Collection percentage currently sits at 81.72%, is in keeping with historical collection performance statistics (see Note 6).
- The 2019/20 Capital Works Program is 25.04% complete utilising actual year to date figures and the total committed cost is 46.22% as at 31 January 2020 (see Note 12).
- Various transfers to and from general Reserve Funds have not been made for 2019/20 as they are generally undertaken in the latter half of the financial year, depending on the specific projects to which the transfers relate. Transfers from Denmark East Development Reserve of \$332,289 relates to current project expenditure for the period.
- Salaries and Wages expenditure is generally in line with year to date budget estimates (not reported specifically in Financial Statement).

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.2.3
MOVED: CR BOWLEY	SECONDED: CR GIBSON
That with respect to Financial Statements for the period ending 31 January 2020, Council receive the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.	
CARRIED UNANIMOUSLY: 8/0	Res: 120320

8.2.4 LIST OF PAYMENTS FOR THE PERIOD ENDING 29 FEBRUARY 2020

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	5 March, 2020
Author:	Scott Sewell, Accountant
Authorising Officer:	Lee Sounness, Executive Manager Corporate Services
Attachments:	8.2.4 – February Monthly List of Accounts Submitted Report

Summary:

The purpose of this report is to advise the Council of payments made during the period 1 February 2020 to 29 February 2020.

Background:

Nil

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework and believes that no additional external/internal engagement or consultation is required.

Statutory Obligations:

Local Government (Financial Management) Regulation 13 states:

13. List of accounts

(1) If the local government has delegated to the Chief Executive Officer the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the Chief Executive Officer is to be prepared each month showing for each account paid since the last such list was prepared:

- (a) the payee's name;
- (b) the amount of the payment;
- (c) the date of the payment; and
- (d) sufficient information to identify the transaction.

Policy Implications:

Delegation Number D040201 - Creditors, Payment Of

The Chief Executive Officer is delegated authority to make payments from the Municipal Fund or the Trust Fund. Each payment from the Municipal Fund or the Trust Fund is to be noted on a list compiled for each month showing -

- a) *The payee's name*
- b) *The amount of the payment*
- c) *The date of the payment*
- d) *Sufficient information to identify the transaction.*

The list referred to above is to be presented to the Council at the next available ordinary meeting of the Council following the preparation of the list and is to be recorded in the minutes of the meeting at which it is presented.

Budget / Financial Implications:

There are no significant trends or issues to be reported.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

L5.0 Our Local Government

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government.

L5.1 *To be high functioning, open, transparent, ethical and responsive.*

L5.4 *To be fiscally responsible.*

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

Nil

Comment/Conclusion:

Nil

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.2.4
MOVED: CR JONES	SECONDED: CR BOWLEY
That with respect to the attached List of Payments, totalling \$1,291,040.95, for the period ending 29 February 2020 be received:	
<ul style="list-style-type: none"> • Electronic Funds Transfers EFT26977 to EFT27215 - \$896,979.83; • Municipal Fund Cheque No's 60357 – 60361 - \$5,743.94; • Internal Account Transfers (Payroll) - \$374,375.22; and • Direct Debit - \$13,941.96. 	
CARRIED UNANIMOUSLY: 8/0	Res: 130320

5.44pm – Cr Gearon returned to the room and resumed the chair as the Presiding Person.

8.3 CHIEF EXECUTIVE OFFICER

8.3.1 WARD & REPRESENTATION REVIEW

File Ref:	ELC.5
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	17 January 2020
Author:	Claire Thompson, Executive Assistant & Governance Coordinator
Authorising Officer:	David Schober, Acting Chief Executive Officer
Attachments:	Nil

Summary:

In order to commence a review of the Shire of Denmark's Wards & Representation, Council are required to resolve to do so by formal resolution.

Background:

A Ward and Representation review is a project which has been identified in the Corporate Business Plan.

Consultation:

Should Council agree to commence a review, an initial public notice is required to advise of Council's intent to carry out a review. A further six (6) weeks advertising is required once a Discussion Paper has been developed. Council is required to consider any submissions received prior to requesting an order be made by the Local Government Advisory Board to make any changes.

Statutory Obligations:

Local Government Act 1995:

- Section 2.2 – Districts may be divided into wards; and
- Schedule 2.2 – Provisions about names, wards and representation.

A local government is to conduct ward & representation reviews from time to time so that not more than 8 years elapse between successive reviews. The last Shire of Denmark ward & representation review was done in 2013.

Policy Implications:

There are no policy implications related to this report or recommendation.

Budget / Financial Implications:

The 2019/20 Budget includes \$20,000 to undertake a review which can accommodate engaging an external consultant to develop a Discussion Paper, advertising and any other associated costs.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

L5.0 Our Local Government

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government.

L5.1 To be high functioning, open, transparent, ethical and responsive.

L5.2 To have meaningful, respective and proactive collaboration with the community.

Corporate Business Plan

L5.2.10 Undertake a Ward and Representation Review to ensure balanced representation.

Sustainability Implications:➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

There are no known risks associated with this report or recommendation.

As the last review was undertaken in March 2013, the Council could decide to wait until the end of the year and include funds in the 2020/21 Budget. However, gaining broader and comprehensive community consultation could be more difficult leading up to the Christmas and New Year period, given that:

- the review would need to be concluded by March 2021 (to be implemented in time for the Local Government Elections in October)
- there is a required six (6) week advertising period;
- final endorsement by Council; and
- final consideration (order) by the Local Government Advisory Board is required.

Comment/Conclusion:

The Officer recommends that Council commence a review in 2019/20 given the timeframes involved in advertising, Council consideration of submissions and final approval / order by the Local Government Advisory Board (should any changes be proposed).

Officers are confident that the project can be concluded by 30 June 2020.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.3.1
MOVED: CR GIBSON	SECONDED: CR LEWIS
That Council authorise the Chief Executive Officer to commence a review of the Shire of Denmark's Wards & Representation.	
CARRIED UNANIMOUSLY: 9/0	Res: 140320

8.3.2 DRAFT PRIVACY STATEMENT (POLICY P040132)

File Ref:	ADMIN.2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	28 February 2020
Author:	Teiga Murray, Corporate Planning Officer
Authorising Officer:	David Schober, Acting Chief Executive Officer
Attachments:	8.3.2a – Amended Privacy Statement 8.3.2b – Schedule of Submissions

Summary:

The purpose of this report is to consider amending the draft Privacy Statement, following the community engagement and staff review period, and formally adopt the Statement for use across all Shire operations.

Background:

In February 2019, Council repealed the Shire's existing Privacy Policy P040132 following some concerns that the use of third-party providers engaged to deliver services on behalf of the Shire was in contradiction to the policy. A draft Privacy Statement was presented to Council that sought to clarify the way in which data is collected and managed by the Shire. The draft Statement outlines how the Shire of Denmark collects information about its customers and stakeholders, how this information will be used and instances where this information may be disclosed. Council endorsed the draft Privacy Statement as guiding principles for all Shire operations and resolved to advertise the Statement for public comment and refer it back to Council with any submissions received for formal adoption.

Consultation:

To facilitate the review of the draft Privacy Statement the Shire of Denmark sought feedback from the community, Shire officers and Councillors.

A request for community feedback was made in April 2019, with community members encouraged to make submissions during a 45-day engagement period.

The Shire received three submissions during the engagement period, which were reviewed by IT, Governance and Corporate Planning staff to understand the organisational impact of the proposed changes and then by Councillors at a workshop held on 21 January 2020.

The submissions received during the engagement period are provided as an attachment to this report.

Statutory Obligations:

WA Local Governments are not subject to Australian Privacy Principles, with Section 6C of the Privacy Act 1988 stating that entities which are state or territory authorities or prescribed instrumentalities of a state or territory (which include local councils) are not organisations. As these entities are not organisations they are exempt from the coverage of the Australian Privacy Principles (Office of the Australian Information Commissioner, www.oaic.gov.au/individuals/faqs-for-individuals/government/do-the-australian-privacy-principles-apply-to-local-councils-or-state-or-territory-governments).

Although the Shire of Denmark is not subject to the Australian Privacy Principles, the Shire views the protection of an individual's privacy as an integral part of the Strategic Community Plan's aspiration of being a high functioning, open, transparent, ethical and responsive organisation. As such, the Shire has prepared a draft Statement that seeks to balance the privacy of customers and stakeholders with the operational requirement to disclose information to contracted third party providers who provide services for the Shire.

The Shire of Denmark is aware that the Department of Premier and Cabinet have sought consultation on proposed Privacy and Responsible Information Sharing legislation which will govern the protection and sharing of person data in the public sector. The consultation period closed in November 2019 and the State Government are working through the submissions received. At this stage, there has been no indication of the timeline for any draft legislation.

Should such legislation be enacted in the future, consideration will need to be given as to whether any changes might be required to the Shire of Denmark's Privacy Statement.

Policy Implications:

The adoption of the Privacy Statement by Council will result in a new organisational Privacy Policy P040132.

Budget / Financial Implications:

There are no known financial implications upon either the Council's current Budget or Long Term Financial Plan.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council’s adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

L5.0 Our Local Government

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government

L5.1 To be high functioning, open, transparent, ethical and responsive.

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council choose not to make changes to the draft Privacy Statement to reflect the feedback received during the community engagement period	Possible (3)	Minor (2)	Low (1-4)	Not Meeting Community expectations	Accept Officer Recommendation or Accept Risk

Comment/Conclusion:

The Shire’s draft Privacy Statement seeks to explain how the Shire of Denmark collects and uses information when carrying out the Shire’s normal activities and functions.

The draft Statement advises that the Shire will not disclose customer and stakeholder information to third parties to use for their personal or commercial advantage, but will disclose information to contracted third party providers who act on behalf of the Shire to provide services for the Shire.

Submissions received during the engagement period requested that the Statement reference the Shire’s ‘right’ to seek redress against third party providers who use personal information for their own advantage or for their own purposes.

Submissions also requested that the Shire be notified when an organisation fails to comply with their own privacy policy, or when a real or suspected data breach occurs.

The Officer has amended the draft Privacy Statement to include the following section, which the officer believes meets the intent of the submissions:

Compliance

Where information is disclosed to third party providers to act on behalf of the Shire to provide services for the Shire, the Shire of Denmark requires the provider to:

- *Manage data and personal information in accordance with the Australian Privacy Principles; and*
- *Notify the Shire of Denmark should a privacy breach or suspected privacy breach occur, or should the entity fail to manage data and personal information at any time in accordance with the Australian Privacy Principles.*

Should third-party providers act in contravention of the Australian Privacy Principles, the Shire of Denmark reserves the right to take action as required, including reporting breaches or suspected breaches to the Office of the Australian Information Commissioner.

Submissions also requested additional information be provided in the Statement in relation to the Shire of Denmark’s own security systems and processes. The Officer received advice from the Shire’s IT Officer who advised that publicly documenting the Shires practices could pose a security risk. As such no additional information has been provided in the Statement in relation to the Shire’s security systems and processes.

The Officer believes that the changes made to the draft Privacy Statement address the balance between the privacy and rights of Shire customers and stakeholders with the operational requirement to disclose information to contracted third party providers who provide services for the Shire.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.3.2
MOVED: CR BOWLEY	SECONDED: CR OSBORNE
With respect to the draft Privacy Statement, Council;	
1. Endorse the changes proposed to the draft Statement resulting from the community and staff engagement period; and	
2. Adopt the Privacy Statement as a Shire of Denmark Policy.	
CARRIED UNANIMOUSLY: 9/0	Res: 150320

9. COMMITTEE REPORTS AND RECOMMENDATIONS

9.1 DRAFT 2019 COMPLIANCE AUDIT RETURN

File Ref:	GOV.8A
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	5 February 2020
Author:	Claire Thompson, Executive Assistant & Governance Coordinator
Authorising Officer:	David Schober, Acting Chief Executive Officer
Attachments:	9.1 – 2019 Compliance Audit Return

Summary:

Council are asked to consider the recommendation from the Audit Advisory Committee and adopt the 2019 Compliance Audit Return (CAR).

Background:

Each year a local government is required to carry out a compliance audit for the period 1 January to 31 December against the requirements of the Compliance Audit Return provided by the Department of Local Government, Sport and Cultural Industries.

The information derived from the CAR is retained by the Department for future reference.

The Audit Advisory Committee considered the draft document at the meeting held on Tuesday, 4 February 2020 and resolved as follows;

“That the Audit Advisory Committee recommend that Council endorse the 2019 Compliance Audit Return and that Council submit a certified copy to the Director General of the Department of Local Government, Sport and Cultural Industries by 31 March 2020.”

Consultation:

- Internal consultation with relevant employees.
- Department of Local Government, Sport and Cultural Industries.

Statutory Obligations:**LOCAL GOVERNMENT ACT 1995**

Section 7.13 (1) (i) of the Local Government Act 1995 requires that the audit of compliance is to be carried out in a prescribed manner and in a form approved by the Minister.

LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996

- Regulation 13 sets out the prescribed manner and form of a compliance audit return, which has been approved by the Minister.
- Regulation 14 refers to the compliance audit period, the format and states that the compliance audit return is to be reviewed by the local government’s audit committee and that the audit committee must report the result of that review to Council. The audit committee’s report must be presented to and adopted by the Council.
- Regulation 15 refers to the requirement that a certified copy of the compliance audit return is presented to the Director General of the Department by 31 March.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There are no known financial implications upon either the Council’s current Budget or Long Term Financial Plan.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council’s adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027**L5.0 Our Local Government**

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government.

L5.1 To be a high functioning, open, transparent, ethical and responsive.

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That the Council not adopt the 2019 Compliance Audit Return.	Rare (1)	Minor (2)	Low (1-4)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation

Comment/Conclusion:

The draft 2019 Compliance Audit Return is attached for review by Council.

Areas of non-compliance have been identified as follows;

Disclosure of Interest		
Number	Reference:	Comment:
Number 1	s5.67 of LGA	At the 17 December 2019 Ordinary Council Meeting an Elected Member declared a proximity interest but did not leave the room. The breach has been reported to the Local Government Standards Panel on 19 December 2019.
Finance		
Number 9	s7.12A (4)	Report provided to the Minister 10 December 2019. Report published 34 days after on the Shire’s website on 13 January 2020.

With respect to the non-compliance of Section 7.12A (4), Shire Officers have noted to include this requirement in the organisation’s compliance calendar, once developed. The development of a compliance calendar has been flagged as an internal project in the Corporate Business Plan.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1
MOVED: CR BOWLEY	SECONDED: CR GIBSON
<p>That Council support the Audit Advisory Committee’s recommendation, adopt the 2019 Compliance Audit Return and authorise the Chief Executive Officer to submit a certified copy to the Director General of the Department of Local Government, Sport and Cultural Industries by 31 March 2020.</p>	
CARRIED UNANIMOUSLY: 9/0	Res: 160320

10. MATTERS BEHIND CLOSED DOORS

Nil

11. NEW BUSINESS OF AN URGENT NATURE

Nil

12. CLOSURE OF MEETING

6.12pm - There being no further business to discuss, the Shire President, Cr Gearon declared the meeting closed.

The Chief Executive Officer recommends the endorsement of these minutes at the next meeting.

Signed: _____
David Schober – Acting Chief Executive Officer

Date: _____

These minutes were confirmed at a meeting on the _____.

Signed: _____
(Presiding Person at the meeting at which the minutes were confirmed.)